

**Workshop on Human Trafficking and
National Human Rights Institutions:
Cooperating to End Impunity for
Traffickers and to Secure Justice for
Trafficked People**



THE ASIA PACIFIC FORUM
OF NATIONAL HUMAN RIGHTS INSTITUTIONS

...a partnership for human rights in our region

BACKGROUND PAPER

21 – 23 November 2005
Sydney, Australia

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Introduction

Every year, thousands of people in the Asia Pacific region become the victims of trafficking, a widespread, secretive and destructive criminal enterprise that amounts to modern-day slavery.

Lured by promises of jobs and money, victims of trafficking are often intimidated and manipulated into jobs with long hours, dangerous conditions and poor or non-existent pay. Trafficking victims can become virtual prisoners, unable to escape because of fears of violence, prison or deportation. They can be tricked or coerced by traffickers and then forced to work off 'debts' in sexually and economically exploitative conditions.

Convinced of the importance of combating trafficking and providing assistance to trafficked persons, the Asia Pacific Forum of National Human Rights Institutions (**APF**) has taken up the issue of trafficking and is working at a regional level to address this problem. This workshop is one of the activities organised by the APF, in partnership with the Australian Human Rights and Equal Opportunity Commission and the Asia Regional Cooperation to Prevent People Trafficking that is aimed at improving the regional engagement of national human rights institutions (**NHRIs**) in relation to human trafficking. Other initiatives of the APF include incorporating the theme of human trafficking for discussion at its 7th Annual Meeting held in New Delhi, India from 11-13 November 2002 – for further information refer to www.asiapacificforum.net/annual_meetings/seventh/meeting_papers.htm. Since that meeting the issue of human trafficking remains a standing item at every APF annual meeting whereby member NHRIs report on its trafficking activities under this agenda item. The APF membership also referred the issue of human trafficking to the APF's Advisory Council of Jurists (**ACJ**) for its consideration and established the APF Trafficking Focal Point Network as set out below.

Advisory Council of Jurists

The Advisory Council of Jurists (ACJ) was formally established in 1998 by the APF to serve as an international human rights law advisory panel to the Forum. Members of the ACJ are eminent jurists who have held high judicial office or senior academic or human rights appointments. Each full Forum member institution may nominate one national of its own country to serve on the ACJ. For example, Professor Vitit Muntarbhorn is the jurist nominated by the National Human Rights Commission of Thailand. There are also jurists on the Council from Australia, India, Indonesia, Fiji, Malaysia, Mongolia, Nepal, New Zealand, Philippines, Republic of Korea and Sri Lanka. The Afghan Independent Human Rights Commission became a full member of the APF this year, and therefore, it

too is now able to nominate a jurist to the ACJ. The Council meets yearly during the APF's annual meeting and provides its services on a pro bono basis.

At the Sixth Annual Meeting of the APF held in Colombo, Sri Lanka in September 2001 the APF agreed to refer the issue of trafficking to the Advisory Council of Jurists.

The terms of reference subsequently adopted by APF members was referred to the Advisory Council of Jurists for their advice and recommendations concerning the nature and scope of a State's obligation under international law, including international human rights law, to prevent trafficking, investigate and prosecute traffickers, and provide protection, assistance and redress to trafficked persons.

A background paper on the issue of trafficking was developed by Ms Anne Gallagher, former adviser on trafficking to the UN High Commissioner for Human Rights, with the assistance of the Secretariat. An extract of the paper is contained in this background paper and the full paper is available at www.asiapacificforum.net/jurists/references/trafficking/background.htm.

The ACJ considered the terms of reference and background paper in New Delhi, India, from 11-12 November 2002. The findings and recommendations of the Jurists are contained in their Final Report which addressed issues including: ratification; implementation; enforcement; victim protection; research and policy; education; and cooperation. A copy of the Final Report is contained in your conference materials and is also available at www.asiapacificforum.net/jurists/references/trafficking/final.htm.

The ACJ is not a court and therefore cannot make decisions that are legally binding, but it can provide expert advice, opinion and recommendations. In this regard, its advice and recommendations on the issue of trafficking have been very positive.

As an example, the ACJ report and recommendations on trafficking were catalytic in the strengthening of the efforts of the Malaysian Human Rights Commission on this issue who subsequently organised consultations with police and other law enforcement agencies, visited detention centres to meet with trafficked women and organised several workshops and compiled comprehensive reports and recommendations. For example, in April 2004, the Malaysian Commission held a workshop on *Trafficking of Women and Children – A Cross Border and Regional Perspective* and a follow-up workshop in October 2004. These activities were the culmination of dialogues with various law enforcement agencies, NGOs, officers and Ministers from Government and representatives from international agencies. The central aim of these activities was to facilitate discussion on steps taken/required at national and regional levels against the backdrop of developments such as the UN Protocol on Trafficking of Women and Children 2000 and other regional initiatives.

Recommendations were made and a report was published and sent to relevant agencies and authorities. The main recommendations in the report include:

- Bilateral and regional Cooperation to Combat Trafficking, including an MOU between Malaysia and other SE Asian nations;
- Setting up a National Task Force on Trafficking – inter-agency and multi-sectorial;
- Ratification of the UN Protocol on Trafficking – advocate for the Government to ratify this Protocol;
- Development of strategies for law enforcement agencies; and
- Review of laws and the need for an Anti-Trafficking Act.

Further the Malaysian Commission, in partnership with UNICEF, held a two day forum on *Reducing Violence, Harm and Exploitation of Children* from 26-27 September 2005. Further information is available at www.suhakam.org.my/misc/Children-ForumBg1.htm.

In addition, the Australian Human Rights and Equal Opportunity Commission used the ACJ recommendations and, along with civil society (including several good investigative journalists and active NGOs), lobbied to get the Australian Government to acknowledge the extent to which women were being trafficked to Australia. In October 2003, the Australian Government subsequently announced at a workshop on trafficking hosted by the Australian Commission (see - www.humanrights.gov.au/sex_discrimination/traffic/index.html), a \$20 million package to provide increased protections to victims and stronger penalties for traffickers. The Australian Commission continues to monitor the implementation of this package along with civil society.

Separate to the ACJ, a number of NHRIs have, of course, been doing significant work on trafficking. For example in 2002 to 2003 the National Human Rights Commission of India undertook action research on trafficking in women and children in India. This was a collaborative venture between the Indian Commission, UNIFEM and the Institute of Social Sciences, New Delhi. The main aim of the action research was to study the trends, dimensions and magnitude of the problem of trafficking in women and children and to assess the types of existing responses to issues arising from trafficking.

Perhaps the significance of the ACJ lies in its regional membership and therefore the regional perspective it can bring which is critical to the success of developing new strategies to address and redress trafficking issues that go beyond national boundaries and sub- regions. The examples above clearly demonstrate what regional bodies such as the APF and its ACJ can and do to make a positive contribution at the regional and national levels through national human rights institutions.

There is a plethora of existing international law, national legislation, dialogues, workshops, academic articles and documentaries on the issue of human trafficking to draw upon. In this regard, the APF and its members need to very seriously consider how we can effectively monitor and assess the implementation and the impact of our activities on the ground and ensure that our achievements and challenges are made available and shared – not only amongst APF members, but also to civil society and governments. The

APF will therefore be making a concerted effort to monitor and assess its activities in this area.

Trafficking - Focal Point Network

At its 7th Annual Meeting in 2002, the APF agreed on the establishment of Focal Points on the Human Rights of Women, including Trafficking, within each APF member institution to develop a network of exchange of activities and practical assistance on the issue of trafficking.

An example of cooperation between the APF Focal Point Network occurred between the National Human Rights Commission of Mongolia which sought assistance from the Malaysian Human Rights Commission on women who had been trafficked from Mongolia to Malaysia. The Malaysian Commission met with those women who were in detention to monitor their situation. The Mongolian Commission's Trafficking Focal Point was invited to the Malaysian Commission's trafficking workshop which was held in 2004 to discuss these issues further.

In 2003, the Australian Commission through its Trafficking Focal Point invited and funded the participation of the Indian Commission to its Trafficking Forum to include a broader regional perspective from an institution from one of the most populous countries in our region.

Other informal exchanges have occurred within this network, but it has yet to reach its full potential and is an area for discussion at this Workshop.

The following are the names and contact details of the current members of the Trafficking Focal Point Network. The APF would like to encourage all member NHRIs to nominate a representative to be its Focal Point on Trafficking if it has not already done so.

Country	Focal Point representative
Australia	Ms Sally Moyle Director, Sex Discrimination Unit Human Rights and Equal Opportunity Commission e-mail: sallymoyle@humanrights.gov.au
Fiji	Ms Deveena Sudhakar Herman Legal Officer Fiji Human Rights Commission e-mail: dsudhakar@humanrights.org.fj

India Dr Justice Shivraj V. Patil
Member
National Human Rights Commission of India
e-mail: js-nhrc@nic.in / patilsv@nic.in

Mongolia Ms Purev Oyunchimeg
Complaints Officer
National Human Rights Commission of Mongolia
e-mail: p.oyunchimeg@nhrc-mn.org

Nepal Ms Padma Matthema
National Rapporteur on Trafficking
National Human Rights Commission of Nepal
e-mail: padma.mathema@nhrc-nepal.org.np

New Zealand Ms Joy Liddicoat
Commissioner
Human Rights Commission of New Zealand
e-mail: JoyL@hrc.co.nz

Dr Terry O'Neill
Manager, Human Rights Team
Human Rights Commission of New Zealand
e-mail: TerryO@hrc.co.nz

Republic of Korea Ms Duk-Hyun Kim
Commissioner
National Human Rights Commission of Korea
e-mail: kmj450@hanmail.net

Thailand Professor Pradit Chareonthaitawee
Member
National Human Rights Commission of Thailand
e-mail: Pradit@nhrc.or.th
Please copy your email to the following addresses:
e-mail: atchara@nhrc.co.th and peeyanuj@nhrc.or.th

National Human Rights Institutions – Response to APF Trafficking Questionnaire

Note: not all NHRIs responded to the questionnaire

Afghanistan Independent Human Rights Commission

- 1. Has the commission taken up the trafficking as a human right issue under its jurisdiction?**

Yes.

- 2. Has the commission used the Palermo trafficking protocol and the united nation high commissioner’s recommended principles and guidelines on human right and human trafficking as a guide to its work?**

As the Commission is not involved specifically in the trafficking issue as whole, it has not yet used all of the recommendations and measures in abovementioned documents, properly.

- 3. Has the commission implemented the recommendation of the advisory council of jurists made in its final report on trafficking, December 2002?**

Not yet.

- 4. Has the commission issued any opinion, advisors or recommendations to government on trafficking?**

The commission conduct research on the issue of child trafficking in Afghanistan and accordingly provide Government with recommendation to prevent children from trafficking, as a result of which a National Committee on Preventing Children from Trafficking was established based on a presidential decree, and also the National Plan of Action on Combating Child Trafficking in Afghanistan (NPACCTA) was adapted by the Cabinet.

- 5. Has the commission conducted research on trafficking?**

Yes, two different research was conducted 1) on the judicial procedures regarding the offenders of child trafficking, 2) a case study on the situation of children victim of trafficking.

6. Has the commission identified laws/ policies/ practices in your country that relate to trafficking and trafficked people?

The Commission is part of the National Committee on Preventing Children from trafficking and one of the main task for this committee is to revise laws in favour of children to prevent them from trafficking, and also the adoption of the NPACCTA.

7. Has the commission proposed legislation relating to trafficking, or helped develop a national policy?

Yes, the Commission is the committee on confronting child trafficking and recently a national plan of action to prevent children from trafficking has been passed by the Cabinet, which was prepared by the committee.

8. Has the commission investigated or otherwise dealt with individual cases?

The Commission, as far as been possible, followed up with the individual cases of child trafficking in the judicial departments in order to make sure that government is taking care of the case, in few incidents.

9. Has the commission undertaken awareness and education campaigns relating to trafficking and trafficked people?

Yes, a number of training and awareness raising programs have been conducted by the Commission for police, teachers, journalists, religious leaders in order to raise public awareness in regard of child trafficking.

10. In its work on trafficking and trafficked people, has the commission addressed the particular needs of trafficked women and trafficked children? If so, in what way?

Yes, as mentioned above based on the strong needs felt the Commission is involved in child trafficking issue, only. However, it has been addressed in roundtable meeting/discussions, seminars, interviewing with media and awareness workshops.

11. Does the commission have specific program related to trafficking and trafficked people?

Part of the job for Commission is to implement the NPA on combating child trafficking.

12. Does the commission have the mandate to and has it intervened in court proceedings?

The commission several time participated in the court hearing of child trafficking cases and meanwhile under take a study on the judicial procedure regarding child trafficking

cases also have advocated for the strong punishment of the people committing child trafficking.

13. Does the commission have the mandate to and has it prosecuted individuals involved in trafficking?

No, but can advocate and put pressure for such action. The Commission actually is very keen that the free and fair trial process in the trafficking cases should be undertaken by the judicial departments.

14. Has the commission addressed the issue in its annual report or human rights reports?

Yes, the Commission highlights the issue on child trafficking, several times in its annual report, and specific report on children's situation to the 61st meeting of UN on human rights.

15. Does the commission have commissioners or staff with specific responsibility for trafficking and trafficked people?

No, but the child protection commissioner and more than fifteen staff members of the Commission's Child Rights units in the capital, regional and provincial offices are partly involved in this regard.

16. Does the commission have regional offices and are they involved in the trafficking issues? If so in what way?

Yes, the same as explained in Question 15.

17. Does the commission work in collaboration with the civil society including the private sector, government or UN agencies or multilateral donors such as the World Bank on this issue? If so, in what way?

Yes, as explained above all efforts regarding preventing children from trafficking are undertaken jointly by the committee confronting child trafficking and this committee consists of all above mentioned actors, meanwhile the commission has implemented different programs with UNICEF, the offices of the Save the Children alliance in Kabul, and several local NGOs involving in child protection and child rights promotion.

18. Does the commission work with the Government, for example with law enforcement agencies, in its trafficking work?

Yes as mentioned the law enforcement agencies are also part of the mentioned committee. It is worth mentioning that, the Commission, for the first time, organized and facilitated a workshop in which more than 150 chief police officers of the Capital and provinces participated.

19. What additional activities could your commission be undertaking to address the issue of trafficking and trafficked people?

- Encouraging government to revise and improve the judiciary process,
- building public awareness on the issue,
- helping victims of child trafficking to be remedied through pursuing Government to establish proper judicial mechanisms in this regard
- advocating child protection among the government department, CS key members, educational institutions, the UN offices, donor agencies, in terms of security, providing them proper education and health facilities, and drawing appropriate economic strategy in bettering the family economy so as to, indirectly, preventing of all forms of child exploitation and child abuse.

Human Rights and Equal Opportunity Commission of Australia

1. Has the commission taken up the trafficking as a human right issue under its jurisdiction?

Yes, in Australia, with some engagement in the region.

2. Has the commission used the Palermo trafficking protocol and the united nation high commissioner's recommended principles and guidelines on human right and human trafficking as a guide to its work?

Yes, they have been a useful tool in grounding our submissions and advice to government.

3. Has the commission implemented the recommendation of the advisory council of jurists made in its final report on trafficking, December 2002?

They are a useful reference and the Commission certainly works with the recommendations.

4. Has the commission issued any opinion, advisors or recommendations to government on trafficking?

- Yes. In 2003 the Sex Discrimination Commissioner (SDC) and the Sex Discrimination Unit (SDU) Director twice briefed the Minister for Justice regarding the Government's response to trafficking. These meetings were influential in shaping the Government's response to trafficking that was announced in 2003.
- In 2004 the SDU Director gave evidence to the Parliamentary Joint Committee on the Australian Crime Commission inquiry into the response to trafficking of women for sexual servitude.
- In 2005, the SDU Director and the Deputy Director of the Legal Section gave evidence before the Legal and Constitutional Senate Committee and made a written submission in relation to the Committee's inquiry into the Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004. The submission and evidence were influential in having the legislation strengthened and better reflect the Palermo protocol.
- The SDU Director is a member of the advisory group on the development of the Government's communications strategy in relation to trafficking.

5. Has the commission conducted research on trafficking?

The Commission has not conducted research on trafficking but continues to monitor the situation in relation to trafficking by ongoing liaison with trafficking NGOs and academics working in the area.

6. Has the commission identified laws/ policies/ practices in your country that relate to trafficking and trafficked people?

Yes.

7. Has the commission proposed legislation relating to trafficking, or helped develop a national policy?

Yes. See 4 above – many of the Commission’s suggestions on the Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004 were accepted by Government and reflected in the final Bill.

8. Has the commission investigated or otherwise dealt with individual cases?

Yes. The Commission monitors progress with some individual cases and has brought concerns informally to the attention of Government on several occasions. The Commission has not formally used its investigation or inquiry powers in a trafficking case.

9. Has the commission undertaken awareness and education campaigns relating to trafficking and trafficked people?

Yes. In 2003 the SDC made public comment regarding the shortcomings of the Government approach to trafficking issues. In October 2003 the Commission co-hosted a trafficking conference with NGO Project Respect entitled *Stop the Traffic II*. Fact sheets about the Commission’s work on trafficking are available on the website.

10. In its work on trafficking and trafficked people, has the commission addressed the particular needs of trafficked women and trafficked children? If so, in what way?

Yes, the primary focus of the Commission’s work on trafficking is women and children. The Commission has on several occasions recommended to Government that the protection response to trafficked people in Australia needs to be strengthened. The Commission has no role in providing services directly to people who have been trafficked.

11. Does the commission have specific program related to trafficking and trafficked people?

Yes, trafficking issues in Australia and the region are continually monitored.

12. Does the commission have the mandate to and has it intervened in court proceedings?

Yes, the Commission has considered intervening in inquest proceedings in relation to the death of a woman who was allegedly trafficked to Australia however decided against

intervening in that case. The Commission will continue to assess new cases to decide whether to intervene. The Commission has not intervened in criminal proceedings and would be unlikely to do so.

13. Does the commission have the mandate to and has it prosecuted individuals involved in trafficking?

No.

14. Has the commission addressed the issue in its annual report or human rights reports?

Yes, the Sex Discrimination Unit reports on its work on trafficking in the annual report.

15. Does the commission have commissioners or staff with specific responsibility for trafficking and trafficked people?

The SDU Director is the trafficking focal point and more generally the sex discrimination unit work on trafficking issues.

16. Does the commission have regional offices and are they involved in the trafficking issues? If so in what way?

No.

17. Does the commission work in collaboration with the civil society including the private sector, government or UN agencies or multilateral donors such as the World Bank on this issue? If so, in what way?

Yes, the Commission works closely with NGOs including Project Respect, the Anti-Slavery Project, the Scarlet Alliance, Sex Worker outreach organisations, mainstream NGO's working in the area and academics. The Commission also has contacts in the region on trafficking.

18. Does the commission work with the Government, for example with law enforcement agencies, in its trafficking work?

Yes, see 4 above: the Commission sits on an advisory panel in relation to the Government's communications strategy on trafficking and maintains contact with officers responsible for all aspects of the Government's trafficking response.

19. What additional activities could your commission be undertaking to address the issue of trafficking and trafficked people?

The Commission would like to undertake research and/or conduct an inquiry or review of trafficking situation and the government response.

Fiji Human Rights Commission

1. The work that the Commission has done in the past and is currently doing to address the issue of trafficking

Fortunately, in Fiji, trafficking is not a critical issue at the moment. Thus it has not been addressed robustly by the Commission, relevant government departments and other civil society organisations. There has not been any case reported or investigated by the Fiji Police, Immigration Department or other relevant authorities regarding human trafficking.

Case

In 2002 the Commission was involved in a case that may have been part of a trafficking scheme. Three Chinese nationals were caught at the Nadi International airport traveling with inappropriate documents. The Police and Immigration Officials intervened and investigated the matter and found out that some officials from the Immigration Department and some Asian nationals in Fiji had arranged and supplied the documents.

The matter was taken to court and the three Chinese Nationals were sent to prison to await trial. A complaint was lodged on their behalf and the Commission intervened in the matter. The three had become state witnesses and were to identify the people who assisted them in coming to Fiji. Meanwhile they had been languishing in prison for over a year. The change in food and the language barrier was affecting the detainees.

The Commission made submissions and requested the court to take their testimony and have them deported to China. The matter is still before the courts in Fiji dealing with the charges against the local people while the three Chinese nationals have been deported.

In 2002 there were no laws relating to human trafficking in the Penal Code of Fiji. If there were any such laws then, then the court would have been alerted to that.

Immigration Act 2003

Since then a significant development in the area of trafficking of persons was the enactment of the Immigration Act 2003. When this bill was being drafted the FHRC did not have an opportunity to make submissions because this bill was not forwarded to the Commission. However, consultations were held with the United Nations High Commissioner of Refugees, Forum Secretariat and the Pacific Immigration Directors Conferences and other local government departments.

Upon studying the Act later the Commission found that the provisions on trafficking and refugees were in line with Fiji's international obligations.

The Immigration Act 2003 under Part 5 has detailed provisions on 'trafficking and smuggling of persons'.

It contains provisions such as:

- Interpretation
- Application of this Part
- Offence of Trafficking in persons
- Offence of trafficking in children
- Exploitation of persons not legally entitled to work
- Consent of trafficked persons
- Offence of smuggling of migrants
- Aggravated offence of smuggling migrants
- Offence to facilitate stay of unauthorized migrants
- Offence related to fraudulent travel or identity documents
- Aiding, abetting, etc
- Incitement to commit an offence
- Conspiring to commit an offence
- Attempting to commit an offence
- Immunity from prosecution
- Predicate offences for money laundering, etc
- Obligation of commercial and private carriers
- Boarding, search and detention of aircraft or ship
- Liability of companies
- Information relating to persons entering or leaving the Fiji Islands
- Power to prevent entry and order the removal of persons.

These provisions of the Immigration Act have yet to be tested in the Fiji Courts.

This year the Immigration Department held a workshop to discuss the guidelines to be put in place as a supplement of the 2003 Act and the FHRC was part of that workshop. Currently the consultants are working on the draft guidelines and the Commission would follow the process and make submissions based on the Palermo Trafficking Protocol and the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking.

Ratification of CRC Optional Protocol

In 2002 the Commission had written to the Minister for Foreign Affairs to urge the Government to ratify the CRC Optional Protocol on the sale of children, child prostitution and child pornography. The Ministry was looking into this but as yet Fiji has not ratified this Optional Protocol which contains provisions on child trafficking.

Dissemination of Information

The Commission on a number of occasions has provided information on human trafficking to the public who seek specific information. For the past two years the Commission has also provided information to the Embassy of the United States of America for them to compile situational report on Fiji.

Laws relating to trafficking and trafficked people

The Commission has identified the following local and international laws relating to trafficking and trafficked people.

They are as follows:

Local laws

- *Penal Code*
Buying and selling of minors – sections 162, 163
Child stealing – section 254
Abduction of girls under sixteen – section 255
Unlawful compulsory labour – section 257
- *Constitution*
Freedom from servitude and forced labour – section 24

Interpretation – Section 43 (2), which states that “In interpreting the provisions of this Chapter [Bill of Rights], the courts must promote the values that underlie a democratic society based on freedom and equality and must, if relevant, have regard to public international law applicable to the protection of the rights set out in this Chapter.”

- *Immigration Act 2003*
Trafficking and Smuggling of Persons – sections 17 – 37
- *Extradition Act 2003*
- *Mutual Assistance in Criminal Matters act 1997*
This Act can be used by Fiji to seek assistance from other countries to repatriate victims and bringing the offenders to the court

International laws

- The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol. I) (2001).
- United Nations High Commissioner For Human Rights Principles and Guidelines on Human Rights and Trafficking, E/2002/68/Add.1 (2002).
- International Covenant on Civil and Political Rights
- Convention on the Elimination of all forms of Discrimination Against Women
- Convention on the Rights of the Child and Optional Protocol on the sale of children, child prostitution and child pornography

Desk Officer for Trafficking

The Commission has identified one of the Legal Officers to the Desk Officer for Trafficking. She is also the Desk Officer for Child Rights and Women's Rights and it was appropriate to designate the same person to be the Desk Officer for Trafficking because women and children are the most common victims of trafficking and all their issues can be dealt with by the same person. It is the responsibility of this officer to collect information on trafficking and update the Commission and also disseminate information to other organisations and other individuals as per their request.

2. Any additional projects that the commission could be undertaking in relation to trafficking according to its mandate

Fiji has not ratified the Trafficking Protocol and the FHRC would be writing to the Ministry of Foreign Affairs to ratify the Protocol. Ratification of the Protocol would be in addition to the provisions in the Immigration Act 2004 and it would assist the Fiji Officials in liaising with other state parties when such cases are reported.

The Commission does not have a mandate to prosecute offenders for trafficking offences. The power vests with the Office of the Director of Public Prosecutions. The FHRC has powers to appear as amicus curiae, intervene and take up cases on its own motion on any human rights issues. If there are cases in the future that come before the courts relating to human trafficking then FHRC would intervene if not invited by the courts and make submissions depending on the particular facts of the case.

The Commission has in the past worked with the government and civil society organisations and it will cooperate and work with them and the law enforcement agencies on the issue of trafficking and provide advice and make recommendations as necessary.

National Human Rights Commission of India

1. The work that the Commission has done in the past and is currently doing to address the issue of trafficking?

First and foremost, the National Human Rights Commission of India, at the request of the former United Nations High Commissioner for Human Rights, appointed one of its Members to serve as its *Focal Point on the Human Rights of Women Including Trafficking* in February 2001. The Senior Research Officer of the Commission was deputed to assist the Member. Thereafter, a series of research and practical programmes were initiated by the Focal Point, which are as follows:

a) *Information Kit on Trafficking*

In order to inform the people at large about the various aspects of trafficking – its forms, estimates, causes, consequences, modus operandi and the role of the Commission in preventing and combating trafficking, an Information Kit on Trafficking in Women and Children was prepared by the Focal Point. This Kit was released to the public in October 2001.

b) *Action Research on Trafficking in Women and Children in India*

Another major activity undertaken by the Focal Point was an Action Research on Trafficking in Women and Children in India. The Commission, the UNIFEM and the Institute of Social Sciences, an NGO based in New Delhi, conducted this Action Research jointly. For this purpose, the Commission also requisitioned the services of a senior police officer from the Indian Police Service.

The main focus of the Action Research was to:

- study the magnitude of the problem of trafficking in women and children in India;
- undertake vulnerability mapping of geographical areas prone to trafficking, with specific reference to demand, supply and transit points so as to find out the causes, factors, trends and patterns of trafficking;
- assess the types of existing responses to issues arising from trafficking in women and children including the role of Government, law enforcement agencies, NGOs and others in detecting, preventing and curbing trafficking;
- review the existent laws and, on that basis, recommend whether new laws could be enacted and how the old laws could be strengthened; and
- analyse issues relating to the rehabilitation and reintegration of trafficked women and children once they are rescued.

For the purpose of the Action Research, 'trafficking' as defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime, 2000 (also known as the Palermo Trafficking Protocol) was used as a guide/working definition to collect data from the field.

The report of the Action Research was released to the public in August 2004. The detailed report may be seen on the Commission's website www.nhrc.nic.in. Thereafter, as directed by the Commission, a copy of the Report was forwarded to the Government of India and the Chief Secretaries and Directors General of Police of all the States for follow-up action.

c) *Training, Sensitisation and Public Awareness Programmes*

As part of the Action Research, training, sensitisation and public awareness programmes for various stakeholders were carried out by the Focal Point and Members of the Action Research team all over the country. In all 34 programmes were carried out to sensitise police officials of different ranks about the problem of trafficking, 7 programmes were conducted for judicial officers and 36 programmes were conducted for NGOs.

d) *National Network of Nodal Officers*

During the course of the Action Research, a request was made by the Focal Point to all the State Governments/Union Territory Administrations to appoint two Nodal Officers, one representing the Police Department dealing with investigation, detection, prosecution and prevention of trafficking and another representing the welfare agencies dealing with rescue, rehabilitation, reintegration and economic/social empowerment of the victims and at-risk victims. This request of the Commission was complied by almost all the States/Union Territories. The Commission also convened a national conference of these Nodal Officers in which the Terms of Reference, duties and functions of the Nodal Officers were deliberated in detail and finalised. Later a copy of this was also circulated to the Chief Secretaries/Administrators of all States/Union Territories for implementation.

e) *Rescue, Rehabilitation and Repatriation*

During the course of the Action Research, some cases where the victims of trafficking had not received adequate justice were brought to the notice of the Commission/Focal Point/Members of the Action Research Team. Immediate action was thereupon initiated to involve the various agencies in the concerned State in order to ensure that justice was delivered.

f) *Trans-border Repatriation and Rehabilitation*

The Action Research brought to the forefront few cases of trans-border trafficking also. In one such instance, intervention by the Commission enabled a girl child, who had been in jail for two years on charges of soliciting, to find justice.

g) Strengthening of NGO-Police Partnerships

The Action Research facilitated in building strong partnerships between the police officials and NGOs in all the 13 States covered by it, including the research partners and other NGOs committed to the cause of anti-trafficking. This collaboration further resulted in carrying out several action programmes so as to eliminate the scourge of trafficking.

h) Sensitisation Programme on Prevention of Sex Tourism and Trafficking

The Commission in collaboration with UNIFEM and a Mumbai based NGO organised the above programme in January 2003. The main objective of the programme was to sensitise senior representatives of the hotel and tourism industry on various issues relating to sex tourism and trafficking. This was probably the first time that the corporate sector was drawn into the anti-trafficking campaign in India.

i) National Workshop to Review the Implementation of Laws and Policies Related to Trafficking: Towards an Effective Rescue and Post-Rescue Strategy

The Commission in collaboration with a Mumbai based NGO organised the above Workshop. The main objectives of this Workshop were to review the effectiveness of the existent laws in India for rescue and post-rescue work; exchange the experiences of various stakeholders with regard to rescue and post-rescue work; suggest ways to overcome the problems faced by various government functionaries involved in rescue and post-rescue work; examine the involvement of NGOs; and work out a uniform policy, scheme and plan for the effective rescue and post-rescue work for the trafficked victims.

The recommendations that emerged from the deliberations of this Workshop were later adopted by the Commission and sent to the Government of India and the concerned Departments of States/Union Territories for implementation.

j) Steps for Prevention of Cross-Border Trafficking

In order to prevent cross-border trafficking of women and children along the Indo-Nepal border, the Commission extended help to an NGO engaged in this task. The said NGO was also one of the research partners for collecting data on the Action Research.

k) NHRC, India – NHRC, Nepal Joint Project for Combating Cross-Border Trafficking

In order to check cross-border trafficking between India and Nepal, the NHRC, India and NHRC, Nepal propose to take up a joint project for combating cross-border trafficking. Keeping in view the Recommended Principles and Guidelines on Human Rights and Human Trafficking issued by the Office of the High Commissioner for Human Rights (OHCHR), a draft Memorandum of Understanding between the two Commissions on the

possible areas of cooperation has also been worked out. The same, at present, is pending approval of the Government of India.

l) Implementation of the Recommendations of the Advisory Council of Jurists of the Asia Pacific Forum on the Issue of Trafficking

The Advisory Council of Jurists of the Asia Pacific Forum of National Human Rights Institutions that had met in New Delhi on the 11th and 12th of November 2002 at its 7th Annual Meeting had deliberated on the role of the National Human Rights Institutions in the prevention of trafficking in women and children, and also submitted its Final Report, wherein it made a number of recommendations. In this context, the Commission approved the action points prepared in respect of the recommendations made by the Advisory Council of Jurists. Thereafter, the said Report was forwarded to the Department of Women and Child Development and the Ministry of Home Affairs for appropriate action. The former has also reported back to the Commission highlighting the initiatives taken by it on preventing and combating trafficking in women and children. For instance, the Department of Women and Child Development has informed that the ratification of the “Trafficking Protocol” supplementing the UN Convention Against Transnational Organised Crime, 2000 is under consideration by the Government of India. The existing law – the Immoral Traffic (Prevention) Act, 1956 is being amended to make it more stringent for traffickers and humane to victims. It had also started the process of bilateral dialogue with neighbouring countries like Nepal and Bangladesh on cross-border trafficking. Further, officers of the level of Inspector and above in the Central Bureau of Investigation have been notified as Trafficking Police Officers for investigation of inter-state trafficking cases and a scheme called SWADHAR has been started for women in difficult situations which is applicable to victims of trafficking also. The scheme provides for shelter, counselling, medical assistance, vocational training to rescued victims.

m) Preparation of a Judicial Handbook on Combating Trafficking of Women and Children for Commercial Sexual Exploitation

The Department of Women and Child Development (DWCD), Government of India approached the Focal Point to prepare the above Handbook under the joint aegis of the Commission and the DWCD for use of the subordinate judiciary. Accordingly, consultative meetings with judicial officers, public prosecutors, police officers and representatives of NGOs were held in 10 different States of the country. Based on the interaction with them as well as data collected through primary and secondary sources, the draft Handbook was pre-tested and finalised.

n) Preparation of Posters on Preventing and Combating Trafficking in Women and Children

As part of spreading general awareness among the masses on the issue of trafficking, the Commission in collaboration with an NGO brought out posters on preventing and combating trafficking in women and children. These posters were released by the

Chairperson of the Commission in January this year and are now being disseminated all over the country.

o) Training Programmes on Preventing and Combating Trafficking in Women and Children

In order to sensitise the judicial officers, police officers and government officers dealing with the problem of trafficking, including rescue and rehabilitation of trafficked victims, the Commission organised two training programmes during 2004 – 05 on preventing and combating trafficking in women and children. It proposes to organise more number of such programmes during 2005 – 06.

p) Raising the issue of trafficking with Chief Secretaries and Directors General of Police of different States and Union Territories

The Commission has raised the issue of trafficking, especially development of a database on trafficking of women and children, identification of NGOs and networking with other institutions, sensitisation of police and judiciary and preparing an action plan on trafficking in two meetings held with the Chief Secretaries and Directors General of Police.

2. Any additional projects that the commission could be undertaking in relation to trafficking according to its mandate?

Ans. As of now the Commission would like to ensure that the recommendations of the Action Research on Trafficking in Women and Children and that of the National Workshop conducted by it to review the implementation of laws and policies related to trafficking are implemented by the Government – Central and State as well as other stakeholders.

1. Has the commission taken up trafficking as a human rights issue under its jurisdiction?

Yes, the Commission has taken up trafficking as a human rights issue under its mandate since its inception. However, in February 2001, it appointed one of its Members to serve as *Focal Point on the Human Rights of Women Including Trafficking*. The Senior Research Officer of the Commission was deputed to assist the Member.

2. Has the commission used the Palermo Trafficking Protocol and the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking as a guide to its work?

Article 3 of the Palermo Trafficking Protocol, which details out the meaning of trafficking was used as a working definition for the purpose of the Action Research on Trafficking in Women and Children in India.

Similarly, the Commission has referred to the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking for drafting the Memorandum of Understanding that is to be adopted by the NHRC, India and NHRC, Nepal for combating cross-border trafficking.

3. Has the commission implemented the recommendations of the Advisory Council of Jurists made in its Final Report on Trafficking, December 2002?

As already mentioned, the Commission forwarded the Final Report on the Issue of Trafficking prepared by the APF Advisory Council of Jurists to the Department of Women and Child Development, Ministry of Human Resource Development and the Ministry of Home Affairs, Government of India for appropriate Action. For more details see the contents under General Question number 1 (I).

4. Has the commission issued any opinions, advisories or recommendations to government on trafficking?

The Commission has forwarded to the Central and State Governments the Report of the Action Research on Trafficking in Women and Children in India and the Report of the National Workshop to Review the Implementation of Laws and Policies Related to Trafficking: Towards an Effective Rescue and Post-Rescue Strategy, which it organised last year in collaboration with an NGO, for follow-up action.

5. Has the commission conducted research on trafficking?

The Focal Point of the Commission conducted an Action Research on Trafficking in Women and Children in India. The detailed report of the Action Research may be seen at www.nhrc.nic.in.

6. Has the commission identified laws/policies/practices in your country that relate to trafficking and trafficked people?

Through the Action Research on Trafficking in Women and Children in India, the Commission has recommended that the existing law on trafficking be replaced by a comprehensive code, covering all forms of trafficking. It has also recommended that there is need to formulate standard minimum guidelines with regard to rescue, rehabilitation, repatriation, economic and social empowerment, etc. of trafficked victims and survivors.

7. Has the commission proposed legislation relating to trafficking, or helped develop a national policy?

The Commission, as already mentioned, has been instrumental in creating a national network of Nodal Officers all over the country to prevent and combat trafficking. Based on the findings of the Action Research, a Plan of Action to prevent and combat trafficking is also being prepared in which it proposes to raise some of the above concerns.

8. Has the commission investigated or otherwise dealt with individual cases?

The Commission through its Law Division has dealt with individual cases of trafficking that are brought to its notice. While dealing with such cases, if the Commission comes to the conclusion that incidents of trafficking have actually taken place, it directs the concerned Government to take appropriate action in the matter including prosecution of the accused.

9. Has the commission undertaken awareness and education campaigns relating to trafficking and trafficked people?

The Commission has undertaken awareness and education programmes at two levels. Firstly, as part of the Action Research it has conducted umpteen awareness and education programmes.

Secondly, on the basis of the findings and recommendations of the Action Research, the Commission has taken upon itself the onus of organising training programmes relating to trafficking and trafficked victims through its Training Division.

10. In its work on trafficking and trafficked people, has the commission addressed the particular needs of trafficked women and trafficked children? If so, in what way?

The Commission has tried to address the primacy of human rights and human dignity while addressing the particular needs of trafficked women and children. In doing so, it has recommended that suitable legislation for victim protection and support should be introduced. Similarly, the Government should plan rescue operations in coordination with the institutional authorities, towards a humanistic and rehabilitation-oriented approach with the rescued women and children. It has also recommended that sufficient number of Short Stay Homes/Protective Homes or Shelter Homes should be started at district levels, whereby any woman who is in moral danger, rescued, in a situation to be trafficked or re-trafficked in prostitution can approach these homes for a safe and secure shelter. Further, the Homes run by the Government should facilitate the mobility of women and girls in order to obtain vocational training outside instead of imparting traditional skills to them within the four walls of the Homes.

It has also recommended that trained social workers should be appointed at police stations, courts and Rehabilitation Homes for counselling, information and guidance and rehabilitation purposes.

11. Does the commission have specific programmes related to trafficking and trafficked people?

On the basis of the Action Research conducted by the Commission, a Plan of Action is being prepared in which specific programmes related to trafficking and trafficked people would be proposed. As of now, it is focusing on imparting training to the judicial officers, police and government officials working for preventing and combating trafficking in women and children.

12. Does the commission have the mandate to and has it intervened in court proceedings?

As per the Protection of Human Rights Act, 1993 the Commission can “intervene in any proceeding involving any allegation of violation of human rights pending before any court with the approval of such court”. It has however not intervened in any court proceedings pertaining to trafficking.

13. Does the commission have the mandate to and has it prosecuted individuals involved in trafficking?

The Commission has the mandate to intervene in any proceeding involving any allegation of violation of human rights pending before a court, including cases of trafficking. However, the Commission has not intervened in any court proceedings relating to trafficking in women and children.

14. Has the commission addressed the issue in its annual report or human rights reports?

The Commission has addressed the issue of trafficking in women and children in its annual reports.

15. Does the commission have commissioners or staff with specific responsibility for trafficking and trafficked people?

The Commission has appointed one of its Members to serve as a Focal Point on Human Rights of Women including Trafficking and the Senior Research Officer of the Commission has been deputed to assist the concerned Member.

16. Does the commission have regional offices and are they involved in trafficking issues? If so, in what way?

The Commission does not have regional offices of its own. However, under the Protection of Human Rights Act, 1993, State Human Rights Commissions have been constituted in 14 States and some of them have taken up the issue of trafficking.

17. Does the commission work in collaboration with civil society including the private sector, government or UN agencies or multilateral donors such as the World Bank on this issue? If so, in what way?

Yes, to prevent and combat the problem of trafficking in women and children in India, the Commission works in collaboration with the Central and State Governments, UN agencies, private sector as well as the civil society. For details see contents of General Question number 1.

18. Does the commission work with government, for example with law enforcement agencies, in its trafficking work?

As already indicated in answer to General Question number 1, the Commission works closely with the Government in preventing and combating trafficking.

19. What additional activities could your commission be undertaking to address the issue of trafficking and trafficked people?

The human rights and dignity of trafficked persons and survivors shall be at the centre of all efforts to prevent and combat trafficking as well as to protect, assist and provide redress to victims and survivors. In addition to this, the Commission would like to ensure an adequate legal framework that would play an important role both in the prevention of trafficking and combating exploitation of trafficked victims and survivors. Further, it would continue to lay emphasis on education and training programmes for border control officials, law enforcement personnel, labour inspectors, the judiciary and all other pertinent government officials in relation to each element involved in the trafficking issue. Education programmes would involve educating the community about trafficking, its causes and consequences as well as potential victims and vulnerable groups. It would also ensure that definitions of trafficking in children in both law and policy reflect their need for special safeguards and care, including appropriate legal protection.

Human Rights Commission of Malaysia - SUHAKAM

1. Has the commission taken up trafficking as a human rights issue under its jurisdiction?

Yes, the Human Rights Commission has since October 2003 worked on and taken up the issue of trafficking of women and children as a human rights issue. It is an ongoing issue, which the Commission is continuing to work on. Based on research, dialogues and workshops held throughout the years 2003 and 2004, the Commission has published a comprehensive Report on Trafficking of Women and Children, which said Report was sent to the APF Secretariat as well. The said Report is available at the Commission website at www.suhakam.org.my.

2. Has the commission used the Palermo Trafficking Protocol and the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking as a guide to its work?

Yes, the Commission has used the Palermo Trafficking Protocol and the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking as a guide to its work on Trafficking. Infact, both these are attached as appendices in the Report abovementioned.

3. Has the commission implemented the recommendations of the Advisory Council of Jurists made in its Final report on Trafficking, December 2002?

Yes, the Commission has implemented the recommendations of the Advisory Council of Jurists made in its Final report on Trafficking, December 2002.

4. Has the commission issued any opinions, advisories or recommendations to government on trafficking?

Yes, following from the Forum on Trafficking of Women and Children – a Cross Border and Regional Perspective held on 13 and 14 April 2004 and the Workshop held in October 2004 for the police, immigration and enforcement agencies, recommendations were made to the relevant government agencies which said recommendations have been followed up by certain Ministries.

For instance, the Women and Community Development Ministry has identified a temporary shelter home for victims of Trafficking pursuant to the Commission's recommendation to set up such a shelter. This is however yet to be gazetted and the Ministry is working towards this.

As a follow-up from the workshop, the police arrested two leaders of syndicates involved in vice activities under the Anti-Money Laundering Act.

5. Has the commission conducted research on trafficking?

Yes, the Commission has conducted much research on the trafficking of women by interviewing victims of trafficking themselves. The Commission has been able to identify the character and scale of the problem, the trends, the origins, recruitment, transport and exploitation of these victims.

6. Has the commission identified laws/policies/practices in your country that relate to trafficking and trafficked people?

Yes, laws /policies/practices in Malaysia that relate to trafficking and trafficked people are:

- Article 6 of the Federal Constitution
- Section 371 of the Penal Code
- The Child Act 2001
- Section 8 of the Immigration Act 1959(Revised 1963)

7. Has the commission proposed legislation relating to trafficking, or helped develop a national policy?

Yes, the Commission has proposed for the review of existing laws and for the need for a comprehensive legislation encompassing provisions adequate to combat trafficking more efficiently. Amongst the recommendations and proposals made for the review of laws by the Commission were:

- Punishment for those who receive services
- Legal stay for victims of trafficking
- Protection for victim protection/legal protection
- Liability of Employers
- Victimization of Complainant

8. Has the commission investigated or otherwise dealt with individual cases?

Yes, the Commission upon reading press reports of very young girls being arrested for being involved in vice activities, visited these 5 girls at the detention centre and found them to be positively trafficked into the country. The Commission has also visited the Women's Prison and other centre and to date, has interviewed 58 girls.

9. Has the commission undertaken awareness and education campaigns relating to trafficking and trafficked people?

Yes, an officer has so far given talks on 5 occasions on Trafficking at Forums and Seminars organised by the Women and Community Development Ministry on Violence against Women. Further, the Report published by the Commission has also created much

awareness. As for education, the workshop was to educate enforcement officers on Trafficking of women and children.

- 10. In its work on trafficking and trafficked people, has the commission addressed the particular needs of trafficked women and trafficked children? If so, in what way?**

Whilst the Commission has done much work on the particular needs of trafficked women, work on the needs of children is yet to be undertaken. However, an effort is being made with UNICEF to work on this area.

- 11. Does the commission have specific programs related to trafficking and trafficked people?**

Yes, the Commission hopes to have more programmes on creating awareness and education for the public at large as well.

- 12. Does the commission have the mandate to and has it intervened in court proceedings?**

No, the Commission does not have the mandate to intervene in court proceedings.

- 13. Does the commission have the mandate to and has it prosecuted individuals involved in trafficking?**

No, the Commission does not have the mandate to prosecute individuals involved in trafficking.

- 14. Has the commission addressed the issue in its annual report or human rights Reports?**

Yes, the Commission has addressed the issue in two of its annual reports.

- 15. Does the commission have commissioners or staff with specific responsibility for trafficking and trafficked people?**

Yes, there is a sub-committee working on the issue of trafficking under the Economic, Social and Cultural Working Group. The Commissioner in Charge of this sub-Committee is Datuk Dr. Raj Karim and the officer in charge is Ms. Kamala Pillai.

- 16. Does the commission have regional offices and are they involved in trafficking issues? If so, in what way?**

No.

17. Does the commission work in collaboration with civil society including the private sector, government or UN agencies or multilateral donors such as the World Bank on this issue? If so, in what way?

Yes, the Commission has worked in collaboration with government – in particular the enforcement agencies, civil society, UN agencies and regional partners on this issue. The Commission is now working on a project on the issue of trafficking of Children with UNICEF.

18. Does the commission work with government, for example with law enforcement agencies, in its trafficking work?

Yes, the Commission works very well with government and with law enforcement agencies, in its trafficking work. The Commission has in fact referred some cases of trafficked women to enforcement officials.

19. What additional activities could your commission be undertaking to address the issue of trafficking and trafficked people?

The Commission could undertake the training of personnel handling trafficked victims in particular the handling of children.

National Human Rights Commission of Mongolia

1. Has the commission taken up trafficking as a human rights issue under its jurisdiction?

The Commission has been taking up trafficking under its complaints function provided by the law.

2. Has the commission used the Palermo Trafficking Protocol and the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking as a guide to its work?

The Commission has been using the above-mentioned documents in training for the police, prosecutors and judges.

3. Has the commission implemented the recommendations of the Advisory Council of Jurists made in its Final Report on Trafficking, December 2002?

Exploratory research was carried out in cooperation with NGOs. A round-table meeting took place involving judges from the Supreme Court of Mongolia, officers from the Criminal Police and investigators from the Police Department against Organised Crime.

4. Has the commission issued any opinions, advisories or recommendations to government on trafficking?

The Commission did some advocacy work for the ratification of the Palermo Trafficking Protocol. An amendment to the Criminal Code was done as to ensure strengthened culpability for trafficking.

5. Has the commission conducted research on trafficking?

See 3 above. The study was the first of this kind. It has substantiated claims of trafficking and put forward suggestions to make available compensation for victims of trafficking.

6. Has the commission identified laws/policies/practices in your country that relate to trafficking and trafficked people?

Yes. The Commission is working with the Supreme Court of Mongolia to develop a commentary of the provisions of the Criminal Code that relate to trafficking.

7. Has the commission proposed legislation relating to trafficking, or helped develop a national policy?

See 4 and 6 above.

8. Has the commission investigated or otherwise dealt with individual cases?

Yes. The Commission investigated one case that affected three Mongolian women who were trafficked to Malaysia.

9. Has the commission undertaken awareness and education campaigns relating to trafficking and trafficked people?

See 2 and 3 above.

10. In its work on trafficking and trafficked people, has the commission addressed the particular needs of trafficked women and trafficked children? If so, in what way?

The Commission attaches special importance to confidentiality of information relating to victims.

11. Does the commission have specific programs related to trafficking and trafficked people?

The Strategic Plan of the Commission reflects on trafficking, particularly emphasizing training needs of justice officials.

12. Does the commission have the mandate to and has it intervened in court proceedings?

No.

13. Does the commission have the mandate to and has it prosecuted individuals involved in trafficking?

No.

14. Has the commission addressed the issue in its annual report or human rights reports?

Yes. Please refer to the Annual Human Rights Status Report of the Commission of 2003 (www.nhrc-mn.org)

15. Does the commission have commissioners or staff with specific responsibility for trafficking and trafficked people?

Yes. The Chief Commissioner and a Senior Complaints Officer have special responsibility for trafficking and trafficked people.

16. Does the commission have regional offices and are they involved in trafficking issues? If so, in what way?

No.

17. Does the commission work in collaboration with civil society including the private sector, government or UN agencies or multilateral donors such as the World Bank on this issue? If so, in what way?

The Commission has active cooperation with Mongolian civil society organisations and relevant state bodies.

18. Does the commission work with government, for example with law enforcement agencies, in its trafficking work?

See 2, 3, 4, 6, 8 above.

19. What additional activities could your commission be undertaking to address the issue of trafficking and trafficked people?

- Promotion for accession to the Palermo Trafficking Protocol
- Provision of further special training (experience sharing) for the relevant stakeholders

National Human Rights Commission of Nepal

Nepal is a landlocked country situated between China and India. It has a land area of 147,181 square km, with an average length of 885 km, east to west, and a width of 193 km, north to south. The altitude raises from 70 m from the sea level in the terai (the southern plain) to 8848 m high Himalayas to the north. It has a tremendous altitudinal variation, with a wide range of topography and climates, comprising of subtropical to the alpine. The annual rainfall ranges between 1154 and 3620 mm. Topographically, Nepal can be divided into three belts: the Terai (23.11 percent of total area), the Hills (41.68 percent) and the Mountains (35.21 percent). For the administrative purpose, the country is divided into five development regions and 75 districts. These districts have been further subdivided into 58 municipalities and 3,912 Village Development Committees (VDCs).

Nepal's wide ranges of altitudes support broad cultural variations. There are about 20 different ethnic groups, speaking about 35 languages. Inhabitants of the Hills and Mountains tend to be of Tibeto-Burman origin, while of the Terai are largely Indo-Aryan. The official language is Nepali, spoken by the large majority.

Between 1995/96 to 2004/05 development trend in socio-economic status presents mixed scenarios as revealed by Nepal Living Standards Survey (NLSS) 2003/04¹. Accordingly, the poverty level decreased from 38 percent to 29 percent. Though the agriculture sector still dominates life and economy the Nepalese people, the percentage of agricultural households has decreased from 83 in 1995/96 to 78 in 2003/04. Percent of people classified as employed has increased from 67 in 1995/96 to 74 in 2003/04. However, unemployment rate among 15-24 year olds remains high at 6 percent, while those among 10-14 year olds have decreased. In nominal terms, average household income grew by more than 80 percent from 1995/96 to 2003/04. During this period, per capita income increased from US \$ 108 (NRs. 7,700/71) to US \$ 214 (NRs. 15,162/71). The reason behind this increment of the per capita income has been thought to be due to increment in remittances and transfer income. The proportion of households receiving remittances has increased from 23 percent in 1995/96 to 32 percent in 2003/04. Overall, total amount of remittance received has increased from about 13 billion NRs. to more than 46 billion NRs. in nominal terms, while per capita remittance for the entire country has more than tripled in nominal terms.

Changing nature of the Nepalese agricultural economy towards remittance economy presents that migration for the foreign employment has been significantly increased. In addition, conflict situation in Nepal has cropped the problem of internal displacement from the place of residence to other parts of the country. The increasing trend in foreign employment and internal displacement in Nepal has also increased vulnerability of trafficking in general and women and children in particular.

¹ Nepal Living Standards Survey 2003/04, Central Bureau of statistics, National Planning Commission Secretariat, HMG/Nepal, December 2004

Trafficking as such is century old problem in Nepal. Before 1951, the girls from hilly areas were brought to Kathmandu to entertain the then rulers and only few districts were identified as trafficking prone districts. Currently 26 districts out of 75 districts are identified as high risk districts for trafficking. The ILO Study shows that the figure of trafficking of women is as high as annum. UNICEF reports that of the total trafficked victims 20 percent of them are under the age of 16yrs. Realizing the gravity of the trafficking problem in the country, National Human Rights Commission (NHRC), Nepal has considered trafficking as one of the priority issues which should be addressed as worst form of human rights violation. Considering this, formal agreement to establish the office of National Rapporteur on Trafficking in Women and Children (ONRT) within the premises of the commission was made on 29th August 2002 following the signing of Memorandum of Understanding between the Ministry of Women Children and Social Welfare (MWCSW) and NHRC, Nepal.

The objectives of the ONRT is to bring about conceptual clarity on trafficking and related vulnerabilities (illegal migrant status, exposure to HIV/AIDS etc); to monitor the incidence of trafficking thereby galvanizing public opinion; to coordinate national, regional and international efforts to combat crime of trafficking and; to generate high level commitment to efforts aimed at improving the human rights situation of women and children.

Accordingly, the ONRT is responsible for following scope of activities:

- Advocate the human rights of trafficked survivors and vulnerable group of trafficking.
- Develop linkage with national Gos and NGOs working for trafficking concern areas.
- Develop international linkage on regional basis with neighbouring countries and SAARC, UN agencies including commission on Status of women and Commission on child Right, Asia pacific Region.
- Conduct researches on trafficking and related human rights issues.
- Develop reporting system and publish national report on trafficking with the objective to protect and promote the human rights of vulnerable person for trafficking and trafficked victim
- Develop procedures for suo motto action as well as soliciting, receiving and acting upon complaints of human rights violations against women and children
- Review linkage between trafficking and HIV/AIDS, migration and other areas to protect and promote their right.
- Liaison with initiatives of the government and civil society in order to monitor the existing legal framework including and evaluation of the extent to which the existing legal framework meets the Nepal's international legal obligations
- Develop and implement a plan for strengthening the legal and operational framework and its implementation and redressing the deficiencies.
- Strongly advocate for implementation of Human Rights standards for the treatment of trafficked persons in prevention, rescue and reintegration as the state obligation

The Commission has appointed National Rapporteur on Trafficking in Women and Children (NRT) though the Commission does not have any commissioner with specific responsibility on the issues of trafficking as such. NRT is supported by additional two staff - program officer and office secretary at ONRT. The responsibility of NRT is to work closely with Commission members and in line with management structure of NHRC.

Combating trafficking is the strategic concern of NHRC. Out of the eight strategic objective of the Strategic Plan (2004 – 2008) of the Commission objective four and five addressed the trafficking issues. Strategic objective four states " To help improve the legislative and regulatory mechanisms for control and cessation of: a) domestic and dowry related violence against women and b) trafficking of women" and Strategic objective five states "To help improve legislative, monitoring and enforcing arrangements for the elimination of violence against children in the form of trafficking, abuse, exploitation and the use of children in conflict".

The Commission has established Policy Steering Committee against Trafficking under the chairpersonship of Honourable chairperson of NHRC with an objective to provide policy directions and to generate policy level commitment in combating trafficking. It comprised of high level representative from Ministry of Women Children and Social Welfare, United Nation Development Programme (UNDP) as member. Further, to develop effective network with GOs and NGOs, to secure effective implementation of the national trafficking related plans and programs, and to provide other technical support Technical Committee against Trafficking has been formed. The Committees has members with representatives from government including Ministry of Women Children and Social Welfare, Ministry of Labour and Transport Management, Ministry of Foreign Affairs, Office of Prime Minister and Council of Ministers, Women Police Cell etc as a member. Both of these committees have provision to invite concerned institutions and experts in case of deemed experts.

By establishing ONRT, NHRC has strengthened its institutional capacity to deal with human rights concern of vulnerable group for trafficking and trafficked survivors specially women and children. NHRC is concerned with Palermo Trafficking Protocol and the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking in responding the challenges of trafficking issues. Therefore the policies and programmes of NHRC to combat trafficking in person focused to women and children is guided from these protocols and guidelines in addition to national policy and National Plan of Action of His Majesty Government, Nepal (HMG/N) on trafficking. The major areas of activities being carried out in this respect can be presented as followings:

With the consultation with concerned government, non government organization, donors, INGOs working in the issues of trafficking, comprehensive definition suitable in the Nepalese context has been developed and is recommended to the HMG/N. The Ministry of Women, Children and Social Welfare is working to establish the proposed definition as working definition in Nepal.

Recommended definition of Trafficking:

Trafficking in person may be defined;

"As the illicit and clandestine movement of person/s including men, women and children within and across national borders for buying, selling, recruitment, transportation, transfer, harbouring or receipt of person,

By means of threat or the use of violence or other forms of coercion, of abduction, of fraud or deception, of the abuse of authority, or of a position of vulnerability, or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of any kind of exploitation or legal/illegal migration leading to trafficking."

Exploitation shall include, at a minimum, non consensual sexual exploitation or consensual in case of children, forced or bonded labour, fraud marriage, camel jockeys, use in circus, slavery or practices similar to slavery, whether for pay or not, servitude or involuntary servitude (domestic, sexual, or reproductive), or the removal or organs, adoption, or other illegal forms of labour as envisaged in the constitution, laws and acts of Nepal and international treaties and convention in which Nepal represents as state party.

The ONRT-NHRC had conducted monitoring in two districts of Nepal for collecting general information in situation of women and children of those districts. It has investigated on trafficked persons though it has not dealt with individual cases. Nepalese children and women are also being trafficked and used in the Indian circus. The detail investigation on some of the children and women survivors of trafficking for circus has been made under the request of NGOs and civil societies. And it has recommended the government for taking necessary steps to rehabilitate them and also to make provisions to control such activities effectively in the future.

According to the mandate, NHRC cannot intervene any cases in court proceedings including cases relating to trafficking. It can inquire into a matter with the permission of the court in respect of any claim on violations of human rights, which is sub-judice in the court.

In addition, it has conducted researches on "An Assessment of Human Rights Protection Mechanism in Women and Police Cell, Nepal which has been already published and on "The study of Girls and women employed in Entertainment sector of Nepal" which is in the process of publication.

NHRC has developed institutional linkage at national and international level by adopting participatory mechanism. ONRT has organized different workshop and consultation meetings with the participation of government, national and international non

government organizations and donors in its program activities. ONRT has also taken part in consultations organized by government bodies to develop different plans and policies regarding trafficking and trafficked person. It has also taken part in workshops, seminars, meetings, trainings organized by other national and international non government and donor organizations. ONRT had participated in the South Asian regional conferences and workshops organized by International Organization of Migration (IOM), UNIFEM, South Asia Regional Equity Programme (SARI/Q) and established institutional working relation accordingly.

The Commission has included the issue of trafficking as the part of its annual report since establishment of ONRT.

In addition to the continuation of its regular activities, NHRC has planned to produce National Report on Trafficking, Nepal in the year 2005 with an objective to make analytical study of trafficking to provide way forward to combat trafficking. This will be the first national report of the country. The report will consist of review on National Plan, Policies and laws; Activities undertaken by different organizations to combat trafficking; Strengths and weaknesses of these activities; Best practices. Conflict induced trafficking has been decided as the theme of report. Researches, workshops, consultations, meetings will be conducted for generating information for the report.

Non-government organizations like Maiti Nepal, ABC, Shakti Samuha are leading NGOs working for rescue, repatriation, rehabilitation, and reintegration of trafficked person. However there is no national plan and policy as such to deal in these areas. NHRC has program to organize different advocacy activities to formulate the policies and recommend to HMG/N to formulate policy with implementation and monitoring strategy. ONRT is responsible for all these activities.

Cross border issues in trafficking is one of the major area that needs immediate action to be dealt with. ONRT will be organizing consultation meeting on the issues at South Asian regional level.

Human Rights Commission of New Zealand

The Human Rights Commission is a national human rights institution, independent of the government and working in partnership with civil society. It has long been engaged with trafficking as a human rights issue in a number of different ways.

In 1999, in response to concerns about Thai and other women and girls being trafficked into New Zealand and held in debt bondage, the Human Rights Commission set up a 'safe house' programme to assist Thai sex workers to escape prostitution in New Zealand. The mayor of Auckland City and various organisations, including the department of immigration, the Police, the prostitutes Collective, Shakti Asian Women's Centre and the Thai Embassy assisted the Commission. The Pink Stickers Campaign publicised information about the hotline and safe house, in both Thai and English, on pink stickers. They were placed in hospitals, red-light districts and police stations. The Commission helped a number of women bonded to the New Zealand sex industry. In 2001, the Commission assisted a Thai woman to recover money paid to traffickers. The Human Rights Commission launched a 'Pink Sticker Campaign' in 2000 to publicise the repatriation programme, which provided a safe house, travel arrangements and follow-up support from Thai women's organisations on return to Thailand. By April 2001, the Commission had helped six Thai women bonded to the New Zealand sex industry. The Commission has also assisted one of the women to make a successful claim in the Disputes Tribunal for money paid to the traffickers.

The work with Thai sex workers included provision of legal counselling and assistance; the provision of a safe house for up to two weeks; crisis intervention and direct monetary assistance; a telephone hotline in normal working hours; accepting referrals from the Police, hospitals and private persons; organising safe return to the country of origin in collaboration with women's NGOs in the home country. The Pink Sticker campaign is no longer in effect and the Minister of Immigration suspended visa-free status between New Zealand and Thailand, in part because of the abuse of the system by traffickers and those working illegally here.

The Human Rights Commission continues its work with trafficking by: regularly consulting with different government agencies and community groups on trafficking; participating with local agencies in the development of strategies to address child prostitution and other forms of exploitation of children and related trafficking issues; raising awareness amongst the public, health professionals and police through dissemination of information via a range of sources; and advocacy and policy-making initiatives.

In July 2002 the New Zealand Government ratified the Protocol to the UN Convention Against Transnational Organised Crime on the Trafficking of Women and Children and the Smuggling of Migrants, and enacted an amendment to the Crimes Act to ensure that people smuggling and trafficking crimes attract stiff penalties.

In March 2003 the New Zealand Government addressed the UN Commission on the Status of Women on its responsibilities to eliminate violence against women and girls. The government indicated its commitment to combating people smuggling and trafficking, with a particular focus on the Asia-Pacific region.

The Prostitution Reform Act which decriminalised prostitution was passed in June 2003. The Human Rights Commission supported the decriminalisation of prostitution which in its opinion creates an environment that is both less hostile and more transparent to those victimised by the trafficking industry. In particular, the Commission took into account Article 6 of the Convention for the Elimination of All Forms of Discrimination Against Women, which requires states parties to take efforts to reduce the exploitation of women in prostitution, but which does not prohibit prostitution per se. The new law has specific provisions designed to prevent trafficking. The Act prohibits the granting of permits under the Immigration Act for persons providing commercial sex, and prohibits holders of temporary permits from providing commercial sex.

A Prostitution Law Review Committee will review the operation of the Act within 5 years, and consider (among other matters) whether any amendments to the law are desirable to limit or control the location and conduct of prostitution. The Commission has been active in supporting nominees to this Committee who have knowledge of and expertise in human rights.

The Commission is continuing to actively monitor the effect of the new legislation by liaising with government agencies and relevant community organisations. A particular focus of attention is the area of child sexual exploitation and collaboration with other agencies to ensure that the government actively implements its obligations under the Optional Protocol on the Sale of Children, Child Prostitution and Exploitation of Children.

Commissioner Joy Liddicoat and Dr Terry O'Neill, Manager, Human Rights Team have specific responsibility for trafficking.

The Commission is also in the process of developing the New Zealand Action Plan for Human Rights. As part of that project, a report on the status of human rights in New Zealand has been prepared. The report was put together from a number of different sources. A nation-wide public opinion study was commissioned to identify the most urgent human rights issues. The expertise of a number of specialist groups as well as almost 5,000 individuals, groups and agencies from around the country also informed the work. Trafficking was not identified during consultations as a high priority human rights issue for New Zealanders at this point in time.

The Commission would welcome a training workshop on trafficking as proposed by the Asia Pacific Forum of National Human Rights Institutions and would be particularly interested in methods of research on trafficking and trafficked people as a topic.

Philippines Commission on Human Rights

1. Has the commission taken up trafficking as a human rights issue under its jurisdiction?

Yes, it is within the Commission's mandate to value the dignity of every human person, especially the vulnerable sector: namely women and children who are victims of trafficking. The Commission is empowered to provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measure and legal aid services to the underprivileged whose human rights have been violated or need protection. [ATIP-IRR Art. V Sec. 18 (3)]

2. Has the commission used the Palermo Trafficking Protocol and the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking as a guide to its work?

Yes, it is the Commission's responsibility to monitor government compliance to international human rights treaty obligations [1987 Philippine Constitution, Art. XII, Sec. 18(7)] related to the suppression/elimination of trafficking, particularly the Convention for the Suppression of Traffic in Persons and Exploitation of the Prostitution of others, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, the Convention on the Protection of Migrant Workers and Members of their Families, and the UN Convention Against Transnational organized Crimes including its Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children. [ATIP-IRR Art. V Sec. 18 (f)] This is explicitly identified in the Implementing Rules and Regulations of the Anti-Trafficking in Persons Act as well as in the Philippine Constitution. [Republic Act No. 9208].

3. Has the commission implemented the recommendations of the Advisory Council of Jurists made in its Final Report on Trafficking, December 2002?

Yes, the recommendations of the Advisory Council of Jurists made in its December 2002 Final Report on Trafficking are being implemented by the Commission. Primarily, it is within the Commission's mandate. Then, it is further strengthened by the promulgation of the Anti-Trafficking in Persons Law and its Implementing Rules and Regulations wherein the Roles and Responsibilities of the Commission on Human Rights are specified under Article V, Section 18 (f). Moreover, the Commission sits with the Philippine Working Group in establishing and developing regional mechanism.

4. Has the commission issued any opinions, advisories or recommendations to government on trafficking?

Yes, the Commission has been issuing advisories and position papers on human rights concerned with trafficking.

5. Has the commission conducted research on trafficking?

The Commission, especially Chairperson Purificacion C. Valera Quisumbing, has been active in presenting papers on trafficking in different international fora. In the local scene, the Commission is active in its advocacy campaign.

6. Has the commission identified laws/policies/practices in your country that relate to trafficking and trafficked people?

Yes, prior to the passage of R.A. 9208, domestic laws exist related to curb trafficking. These are R.A. 7610 otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; R.A. 6955 also known as Mail Order Bride Act; and R.A. 8042 otherwise known as Migrant Workers and Overseas Filipinos Act of 1995.

7. Has the commission proposed legislation relating to trafficking, or helped develop a national policy?

Yes, the Commission actively participates in helping the legislative body formulate national policy related to trafficking. It is also within its powers to ensure implementation of the laws. For example in RA 9262 or otherwise known as Violence Against Women and Children (VAWC), the Commission intervened in the use of local and regional mechanisms to synergize efforts in preventing trafficking and providing protection to victims and families.

8. Has the commission investigated or otherwise dealt with individual cases?

Yes, the Commission has dealt with individual cases of trafficking. It has provided its own investigation of the case, and to include legal assistance.

9. Has the commission undertaken awareness and education campaigns relating to trafficking and trafficked people?

Yes, the Commission actively conducts advocacy and training programs relating to anti-trafficking. Through its Child Rights Center, the Education and Research Office and, the 15 regional offices and 4 sub-regional offices of the Commission vigorously conduct advocacy and training programs.

10. In its work on trafficking and trafficked people, has the commission addressed the particular needs of trafficked women and children? If so, in what way?

It is not within the Commission's mandate to attend to the needs of the victims of trafficking, except through legal assistance and investigation and by way of referring them to concerned government agencies such as the Department of Social Welfare and Development (DSWD).

11. Does the commission have specific programs related to trafficking and trafficked people?

None, however, it is embedded in the Commission's mandate as stipulated in the Philippine Constitution to investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights; provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measure and legal aid services to the underprivileged whose human rights have been violated or need protection; establish a continuing program of research, education, and information to enhance respect for the primacy of human rights; recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families; monitor the Philippine Government's compliance with international treaties on human rights; grant immunity from the prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority; request the assistance of any department, bureau, office or agency in the performance of its functions; perform such other duties and functions as may be provided by law. [1987 Philippine Constitution, Art. XII, Sec. 18]

12. Does the commission have the mandate to and has it intervened in court proceedings?

The Commission has its own legal division. Also, it has lawyers who can represent victims of human rights violations.

13. Does the commission have the mandate to and has it prosecuted individuals involved in trafficking?

On August 2, 1996, the Commission on Human Rights of the Philippines (CHRP) and the Department of Justice (DOJ) entered into a Memorandum of Agreement allowing CHRP lawyers to assist the assistant prosecutors to handle human rights violation cases before the courts. This is in response to prevent the delay in the disposition of cases which is tantamount to the denial of justice to victims of human rights violations and their families.

14. Has the commission addressed the issue in its annual report or human rights reports?

Yes, the Commission has addressed the issue of trafficking in its annual reports. It has accounted individual cases and the steps undertaken such as investigation of the case.

15. Does the commission have commissioners or staff with specific responsibility for trafficking and trafficked people?

At present, the Commission's Child Rights Center is the one assigned to handle issues related to trafficking. In the ongoing reorganization of the Commission, a Center for Women's Human Rights is being set-up to address exploitation of women including trafficking. These centers shall be under the direct oversight responsibility of the Chairperson.

16. Does the commission have regional offices and are they involved in trafficking issues? If so, in what way?

Yes, the Commission has 15 regional offices and 4 sub-regional offices wherein they mirror the efforts of the Central Office to curb trafficking. Moreover, they provide interventions also, direct and tangible services at the grass root levels.

17. Does the commission work in collaboration with civil society including the private sector, government or UN agencies or multilateral donors such as the World Bank on this issue? If so, in what way?

Yes, the Commission actively and continuously collaborates with the civil society including the private sector, government or UN agencies or multilateral donors. It has actively participated in the different forums hosted by various government agencies, international agencies or non-governmental organizations in recognition that trafficking is a trans-regional as well as a trans-national crime. This is concluded as the reality that cooperation among government agencies as well as the private sector is the key to curb trafficking.

Moreover, the Commission has its different offices that take care of coordinating with various Government agencies and offices, Non-Governmental Organizations, Civil Society and the private sector. These are the Non-Government, Civil Society, Media Cooperation Office (NCSMCO), and the Government Cooperation Office (GCO).

18. Does the commission work with government, for example with law enforcement agencies, in its trafficking work?

Definitely, the Commission works not only with the law enforcement agencies but with various government agencies as well such as Department of Justice (DOJ), Department of Social Welfare and Development (DSWD), Department of Foreign Affairs (DFA), Commission on Filipinos Overseas (CFO), Department of Labor and Employment (DOLE), Philippine Overseas Employment Administration (POEA), Bureau of Immigration (BI), Public Information Agency (PIA), Department of Interior and Local Government (DILG), and Technical Skills and Development Authority (TESDA).

In the passage of RA 9208 and the promulgation of its Implementing Rules and Regulations, it established the Inter-Agency Council Against Trafficking (IACAT). This

council is primarily tasked to coordinate, monitor and oversee the implementation of the ATIP Law.

19. What additional activities could your commission be undertaking to address the issue of trafficking and trafficked people?

Relatively, the ATIP Law is a new law. It is wise to mainstream the law first using the rights-based approach and to strengthen existing services, as well as enhance cooperation locally and internationally.

National Human Rights Commission of Korea

- 1. Has the commission taken up trafficking as a human rights issue under its jurisdiction?**

No, it has not.

- 2. Has the commission used the Palermo Trafficking Protocol and the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking as a guide to its work?**

Yes, it has.

- 3. Has the commission implemented the recommendations of the Advisory Council of Jurists made in its Final Report on Trafficking, December 2002?**

We are making efforts to implement them.

- 4. Has the commission issued any opinions, advisories or recommendations to government on trafficking?**

The Commission has presented its opinions on an enforcement ordinance and its regulations on Anti-Human Trafficking and Victim Protection proposed by the Ministry of Gender Equality in August 2004.

- 5. Has the commission conducted research on trafficking?**

No, it has not.

- 6. Has the commission identified laws/policies/practices in your country that relate to trafficking and trafficked people?**

No, it has not.

- 7. Has the commission proposed legislation relating to trafficking, or helped develop a national policy?**

No, it has not.

- 8. Has the commission investigated or otherwise dealt with individual cases?**

No. Our commission has the authority to investigate cases violated by government organs. However, the human trafficking case can be reported to police and prosecution as criminal cases by everybody.

9. Has the commission undertaken awareness and education campaigns relating to trafficking and trafficked people?

No, it has not.

10. In its work on trafficking and trafficked people, has the commission addressed the particular needs of trafficked women and trafficked children? If so, in what way?

No, it has not.

11. Does the commission have specific programs related to trafficking and trafficked people?

No, it does not.

12. Does the commission have the mandate to and has it intervened in court proceedings?

No, it does not.

13. Does the commission have the mandate to and has it prosecuted individuals involved in trafficking?

No, it does not.

14. Has the commission addressed the issue in its annual report or human rights reports?

No, it does not.

15. Does the commission have commissioners or staff with specific responsibility for trafficking and trafficked people?

No, it does not.

16. Does the commission have regional offices and are they involved in trafficking issues? If so, in what way?

No, it does not.

17. Does the commission work in collaboration with civil society including the private sector, government or UN agencies or multilateral donors such as the World Bank on this issue? If so, in what way?

No, it does not.

18. Does the commission work with government, for example with law enforcement agencies, in its trafficking work?

No, it does not.

19. What additional activities could your commission be undertaking to address the issue of trafficking and trafficked people?

Fact-finding survey on the human trafficking issue.

National Human Rights Commission of Thailand

1. The work that the Commission has done in the past and is currently doing to address the issue of trafficking

(1-4) According to Section 15 of the National Human Rights Commission Act B.E.2542 (1999), the Commission has the powers and duties to promote the respect for and the practice in compliance with human rights at domestic and international level. Section 15 also provides the broad – ranged powers and duties for the Commission to promote and protect human rights in all aspects, including the submission of recommendations to the Government and the Parliament such as the revision of law, as deems appropriate. The issue of human trafficking is one of the priorities of National Human Rights Commission's work and, therefore, the Sub-Commission on Anti- Human Trafficking was set up.

The Sub-Commission has mandates to promote the respect for and the practice in compliance with human rights principles, to examine the acts which violate human rights and to propose appropriate remedial measures surrounding the trafficking issue. The Sub-Commission will also promote education researches, raise public awareness and promote co-operation and co-ordination among networks. Thereafter, the Sub-Commission is responsible to report its performance annually to the National Human Rights Commission for consideration.

The Sub-Commission comprised 7 experts on human trafficking from government sectors, NGOs, academia and including a Commissioner. (5-6 /8)

2. Additional projects that the Commission could be undertaking in relation to trafficking according to its mandate

Trafficking in human beings is a global issue and it needs reliable data which would allow comparative analyses in order to design appropriate countermeasures for particular situations. The Sub- Commission is well aware and has planned to undergo a research and stocktaking, especially on the present situation in the country including the possible solutions. The research will be based on literature review and group seminars. The Sub-Commission also plans to publish a booklet for responsible bodies such as key law enforcement authorities in order to raise awareness and suggest best practices in dealing with human trafficking issue.

(9/7/10) The Sub- Commission will hold 3 workshops in different parts of Thailand. It regards that an important preventive measure for human trafficking problem is to give information to the public. Therefore, the Workshops will aim to raise awareness and understanding of human trafficking as human rights issue to the National Human Rights Commission's community networks including district officers, community leaders and teachers. Two sections of the workshops will be devoted to gender issues and trafficking in children and women.

US Department of State: Trafficking in Persons Report

Released by the Office to Monitor and Combat Trafficking in Persons, Department of State
United States Government
June 3, 2005

The Tier system explained

Tier 1: Countries whose governments fully comply with the minimum standards set out in the United States Trafficking Victims Protection Act of 2000 ('TVPA').

Tier 2: Countries whose governments do not fully comply with the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

Tier 2 Special Watch List: Countries whose governments do not fully comply with the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards, and:

- a. The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; or
- b. There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or
- c. The determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

Tier 3: Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

Afghanistan (Tier 2)

Afghanistan is a country of origin for women and children trafficked for the purposes of sexual exploitation and labor. Children are trafficked to Iran, Pakistan, and Saudi Arabia for forced begging, labour, and sexual exploitation. Some parents pay smugglers to take their children into Iran and Saudi Arabia, hoping their children will find work and send remittances; once there, the children become subject to coercive arrangements that constitute involuntary servitude. Children are also "loaned" by their parents to perform agricultural and domestic work within Afghanistan in return for wages paid to the parents; these arrangements often develop into involuntary servitude. Women and girls are kidnapped, lured by fraudulent marriage proposals, or sold into forced marriage and

commercial sexual exploitation in Pakistan. Women and girls are also trafficked internally as a part of the settlement of disputes or debts as well as for forced marriage and labour and sexual exploitation.

Afghanistan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Afghanistan has a taskforce and national action plan focusing exclusively on child trafficking. It now needs to implement its comprehensive national plan of action against all forms of trafficking. Afghanistan needs to establish a shelter for women victims of trafficking as it has done for child victims. It should also deal with corruption within its police forces, as many perpetrators are not brought to justice. Implementation of these reforms is complicated by the fact that Afghanistan still faces resource limitations and daunting challenges in exerting control over some of its provinces.

Prosecution

Afghanistan's law enforcement actions against trafficking are hard to quantify and evaluate, as the government does not compile and keep central data on its prosecution activities. Reports indicate that out of a possible 20 suspected cases of child trafficking, two resulted in convictions, three resulted in acquittals, and six are still being prosecuted. Afghanistan does not have anti-trafficking legislation; however, it can use its other laws to prosecute trafficking and related crimes. The government should implement a comprehensive anti-trafficking law to combat all forms of trafficking. It should also aggressively investigate and prosecute elements within its police force that are complicit in trafficking.

Protection

Afghanistan improved its victim protection activities in 2004. It continued operating a transit centre in Kabul to assist children deported from destination countries. It also used innovative family tracing and reunification systems to facilitate the return and reintegration of children. In addition, Afghanistan has a procedure by which parents/guardians are required to certify their children's safe return to them – a procedure meant to reduce the re-trafficking of child victims. In 2004, Afghanistan, with the assistance of UNICEF and IOM, started reintegration projects in the Baghlan and Takhar provinces for deported children from Saudi Arabia and Iran. Afghanistan, in collaboration with UNICEF, provided anti-trafficking training for officials in frontline agencies. NGOs provided clothing and temporary shelter to victims.

Prevention

The Government of Afghanistan improved its efforts to combat trafficking through prevention activities over the reporting period, due largely to improved security in certain provinces, increased access to education, cessation of war and conflict, improved border control, and improvement in people's standard of living. In 2004, Afghanistan completed a study on child trafficking and approved, translated, and distributed an action plan to

combat this form of trafficking to all provinces. Afghanistan should conduct a similar study for all forms of human trafficking and adopt a plan of action to combat it.

Australia (Tier 1)

Australia is a destination country for women from Southeast Asia, South Korea, and the People's Republic of China (P.R.C.) who are trafficked for the purposes of sexual exploitation. Some of these women travel to Australia voluntarily to work in both legal and illegal brothels but are deceived or coerced into debt bondage or sexual servitude.

The Government of Australia fully complies with the minimum standards for the elimination of trafficking. The Commonwealth's Action Plan to Eradicate Trafficking in Persons provided substantial financial and personnel resources to combat the problem both domestically and internationally. Over the last year, the government further refined its anti-trafficking program. In 2004, the government made significant and greater efforts to combat trafficking, including developing further legislation to criminalize aspects of trafficking and increase penalties for trafficking-related offences, increasing prosecutions, and enhancing victim assistance. The government should consider expanding its protection efforts to cover victims who cooperate with the police but are not part of a viable investigation.

Prosecution

The Australian Government made progress in its efforts to prosecute trafficking-related offences. Trafficking cases were prosecuted under various statutes including provisions in the Commonwealth Criminal Code, the Crimes Act, and the Migration Act. During the reporting period, the Australian Federal Police (AFP) investigated 38 trafficking cases that led to the prosecution of 14 traffickers in five cases involving 24 victims. There were no trafficking convictions during the reporting period. The AFP's Transnational Sexual Exploitation and Trafficking Team, a 23-person unit dedicated to investigating trafficking cases, was charged with determining whether a person is a trafficking victim, often after an initial referral from Australia's immigration agency. In addition to improving law enforcement efforts, the government has been developing further legislation to criminalize aspects of trafficking and increase the penalties for trafficking-related offences. The government also used the Crimes Act to convict Australian citizens and residents who travelled abroad to engage in sex with minors less than 16 years of age. Since 1994, 13 paedophiles have been convicted under this law, which carries a maximum sentence of 17 years.

Protection

In 2004, the government took significant steps to improve efforts by police and immigration authorities to distinguish trafficking victims from illegal migrants. The Australian Government also made progress in identifying and eliciting the cooperation of trafficking victims in providing criminal evidence for the prosecution of traffickers. The government provided all suspected trafficking victims with short-term temporary shelter,

medical care, and counselling. If these victims were determined by police to be able and willing to aid in a criminal investigation, they were given social security benefits, housing, medical treatment, legal assistance, social support, and vocational training. Australia's streamlined police investigation and immigration referral procedures resulted in an increase in the number of suspected trafficking victims referred for visa determinations. During the reporting period, immigration authorities granted 29 bridging visas to trafficking victims. In 2004, the Government also introduced a new witness protection visa exclusively for trafficking victims.

Prevention

The Australian Government continued to expand its efforts to prevent new incidents of trafficking. The government coordinated closely with neighbouring countries to investigate trafficking and funded awareness campaigns in source countries. Australian Government funding helped to establish specialized anti-trafficking law enforcement units and to develop prosecutorial capabilities in Thailand, Laos, Cambodia, and Burma. The government demonstrated regional leadership by providing foreign aid to strengthen the capacity of regional police forces to investigate trafficking cases, supported legal education programs to assist lawmakers in improving their capacity to prosecute traffickers, and funded reintegration programs for trafficking victims. Within Australia, the government continued its multi-year community awareness project on trafficking. The Australian Government also widely publicized criminal cases against traffickers. Australia continued its cooperation with foreign governments in the local prosecution of Australian paedophiles or their extradition or deportation to Australia so they could be tried for the extra-territorial offence of sexual exploitation of a minor.

East Timor (Tier 2)

East Timor is a destination country for women trafficked for the purpose of sexual exploitation. The majority of trafficking victims in East Timor are women from Thailand, Indonesia, and the People's Republic of China (P.R.C.) who had been trafficked for commercial sexual exploitation.

The Government of East Timor does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government shows the political will to address the problem but lacks the resources to combat trafficking effectively. While the East Timorese Government actively engages with NGOs and regional and international bodies, it continues to have difficulty distinguishing trafficking victims from illegal migrants. Government action should concentrate on adopting a strong and comprehensive anti-trafficking law, arresting and prosecuting traffickers, and improving victim protection measures. The government and the United Nations should also continue to address credible reports that UN peacekeepers are clients of brothels that have trafficked women.

Prosecution

The Government of East Timor's law enforcement efforts against trafficking were modest during the reporting period. The government has not developed the capacity to compile full information on trafficking-related arrests, prosecutions, and convictions. East Timorese authorities conducted sporadic investigations and raids but did not prosecute any trafficking-related cases over the last year. The Immigration and Asylum Act of 2003 criminalizes trafficking for commercial sexual exploitation and for non-sexual purposes but penalties are less severe than penalties for rape and forcible sexual assault. The Ministry of Justice is finalizing a new penal code that will criminalize the activities of pimps and brothel owners/operators. There is a lack of coordination between prosecutors and the police, and law enforcement officials generally lack training.

Protection

Due to a lack of resources, the East Timorese Government provided only sporadic protection and assistance to trafficking victims during the reporting period. Some trafficking victims were repatriated with the help of the government, their embassies, and international organizations. While the government assisted a few victims in finding shelter and protection from NGOs it appears that some victims may have been charged and deported for prostitution and/or immigration violations. The government did not fund foreign and domestic NGOs that provided shelter and access to services for victims.

Prevention

There have been no anti-trafficking campaigns conducted in East Timor, in part because East Timor has not been a country of origin for trafficking victims. While the government continued to recognize that trafficking is a problem, it did not place a priority on trafficking prevention programs. The government has been considering a national action plan.

India (Tier 2 – Watch List)

India is a source, transit, and destination country for women, men, and children trafficked for the purposes of sexual and labour exploitation. Indian men and women are trafficked into situations of involuntary servitude in countries in the Middle East and children may be forced to work as beggars or camel jockeys. Bangladeshi women and children are trafficked to India or trafficked through India en route to Pakistan and the Middle East for purposes of sexual exploitation, domestic servitude, and forced labour. Nepalese women and girls are trafficked to India for sexual exploitation, domestic servitude, and forced labour. India is also a growing destination for sex tourists from Europe, the United States, and other Western countries. Internal trafficking of women, men, and children for the purposes of sexual exploitation, domestic servitude, bonded labour, and indentured servitude is widespread. Numerous studies show that the vast majority of females in the Indian commercial sex industry are currently victims of sexual servitude or were

originally trafficked into the sex trade. India is also home to millions of victims of forced or bonded labour.

The Government of India does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The quality and magnitude of the government's anti-trafficking response, particularly in the law enforcement area, are seriously insufficient relative to India's huge trafficking in persons problem. Some important improvements were observed in the efforts of the new government that came into power in June 2004. The Congress-led government has made efforts to consolidate and coordinate central government anti-trafficking efforts through the empowerment of the Secretary for Women and Child Development, who serves as the government's "nodal officer" for anti-trafficking programs and policies. Modest but uneven improvements in anti-trafficking law enforcement efforts were seen in some localities, most notably the cities of Mumbai and Chennai and the states of Maharashtra and Tamil Nadu. The use of fast-track courts was the key to greater prosecutions and convictions in Tamil Nadu while sustaining a high number of trafficking convictions in New Delhi. The March 2005 order by the Home Minister of Maharashtra state to close down "dance bars" — many of which served as prostitution and trafficking outlets — may check a new trend of traffickers favouring this more sophisticated and concealed format for selling victims trafficked for the purpose of sexual exploitation over more blatant brothel-based trafficking.

India is placed on Tier 2 Watch List for a second consecutive year for its inability to show evidence of increased efforts to address trafficking in persons, particularly its lack of progress in forming a national law enforcement response to inter-state and transnational trafficking crimes. The government also lacked a meaningful response to the significant problem of trafficking-related complicity of law enforcement officials. The central government needs to designate and empower a national law enforcement entity to carry out investigations and law enforcement operations against trafficking crimes with nation-wide jurisdiction. This major deficiency was highlighted by state-level law enforcement officials who, at a 2004 conference, pointed to the difficulty in investigating trafficking crimes across state lines and coordinating with other states' police forces in accounting for the low level of trafficking-related prosecutions and convictions in India.

Prosecution

Overall, Indian anti-trafficking law enforcement efforts remained weak, though notable progress was seen in particular localities. Comprehensive statistics on trafficking-related investigations, prosecutions, convictions, and sentences were not available, though statistics obtained from several key cities and states showed 195 prosecutions and 82 convictions obtained for offences related to trafficking for sexual exploitation in 2004. An estimated 2,058 prosecutions and 1,051 convictions for child labor offences were obtained in 2004 throughout India.

India has adequate laws to address trafficking for sexual exploitation of adults and children. The Immoral Trafficking Prevention Act (ITPA) criminalizes the offences of selling, procuring, and exploiting any person for commercial sex as well as profiting from prostitution. However, Section 8 of the ITPA also criminalizes the act of solicitation for prostitution, which has been used in the past to arrest and punish women and girls who are victims of trafficking. The Inter-Ministerial Committee on Trafficking in Persons has drafted revisions to the ITPA, in consultation with civil society groups, and has submitted these revisions to Parliament for consideration. The revisions would eliminate Section 8, thereby affording victims of trafficking greater protections.

The Juvenile Justice Act of 1986, amended in 2001, provides modest criminal penalties for sexual offences committed against minors, including the prostitution of children, but provides strong protections for child victims of trafficking through the oversight of Child Welfare Committees in each state and mandatory care provided in state-approved protection homes.

Indian laws against trafficking for labour purposes, however, are inadequate as they do not offer sufficient criminal penalties for those who are responsible for forced or bonded labour, child labour, and domestic servitude. The Child Labour Act of 1986 has adequate provisions for the freeing and rehabilitation of children found in forced labour conditions, but carries provisions for criminal sentences of a maximum of only three years. Moreover, the enforcement mechanism for this Act appears insufficient – giving the mandate to local Magistrates who are overburdened and ill-trained to carry out the law's requirements. Similarly, the Abolition of Bonded Labour Act of 1976 provides adequate protections for victims of bonded labour but carries only a maximum sentence of three years' imprisonment. Few prison sentences have been handed down under this Act. Moreover, the enforcement of this Act is left in the hands of local magistrates who are over-worked and ill-trained to enforce the Act fully and who are charged with the competing mandate of collecting state taxes from the businesses that employ bonded labourers.

Endemic corruption among law enforcement officials impedes Indian efforts to effectively combat trafficking in persons crimes. Many low-level border guards accept bribes or turn a blind eye to cross-border trafficking. Some police officers have been implicated in tipping off brothels to impending raids and profiting from the proceeds of brothels that enslave trafficking victims. As noted, efforts to curb this trafficking-related corruption have been minimal, usually amounting to officers' transfers or, at best, forced retirement. During the reporting period only two cases of ongoing prosecutions of law enforcement officers for complicity in trafficking were noted. There are also, however, committed police in Chennai, Mumbai, and New Delhi who have worked actively with NGOs to target traffickers and to safeguard victims after their rescue.

In 2004, courts in Mumbai prosecuted 53 persons for trafficking-related offences, handing down 11 convictions. While this is an increase over 2003, the level of prosecution remains inadequate relative to Mumbai's role as the largest centre for sex trafficking in India. Mumbai lacks special "fast-track" courts for trafficking crimes;

consequently, trafficking prosecutions can take as long as eight years, often resulting in acquittals due to lost evidence and unavailable witnesses.

Protection

The central government continues to show inadequate and uneven efforts to protect victims of trafficking, challenged by the decentralized nature of Indian Government social support programs and limited resources. The Department of Women and Child Development (DWCD) – the central government’s nodal anti-trafficking office – improved coordination of support services delivery through greater coordination with states’ departments of women and child development and civil society organizations. Government-run shelters in some localities, like Mumbai, improved significantly over the last year. Other areas lack government-provided shelters dedicated for trafficking victims. During the reporting period, efforts by state governments to develop formal referral systems — through which police regularly refer victims of trafficking to qualified NGO service providers — improved in some areas, but remained woefully inadequate in other localities. In New Delhi, an innovative program was launched, requiring police to provide trafficking victims with counselling from a qualified NGO within 24 hours. This assured level of protection has led to greater victim cooperation with police in investigating and prosecuting traffickers.

In Mumbai, the state-run "Deonar" home for underage trafficking victims has improved its collaboration with U.S. Government-funded NGOs and, as a result, improved the level of care provided to victims it shelters. Police in Mumbai have adopted policies that show greater care for trafficking victims; the police commissioner has instructed police not to arrest women involved in prostitution for solicitation under India’s anti-trafficking and anti-prostitution law — a punishment that often re-victimized trafficking victims in the past.

Prevention

In 2004, the new central government made significant progress in improving a coordinated approach to preventing trafficking in persons. A newly installed Secretary for Women and Child Development was designated the nodal officer to coordinate and oversee all anti-trafficking programs and policies. Since her appointment in mid-2004, the Secretary has reinvigorated the National Central Advisory Committee on Trafficking Persons, including civil society organizations and state-level agencies in frank and productive consultations. Under the Secretary’s leadership, the Committee has introduced much-needed revisions to the ITPA and has begun drafting changes to the 1998 national plan of action on trafficking. Through the Committee, the government coordinated more closely with NGOs, on which it relies for the bulk of anti-trafficking prevention activity in India. The Secretary and her staff have travelled widely, training hundreds of state and police officials in over 20 training sessions.

In late 2004, India’s National Human Rights Commission released a lengthy two-year assessment of the trafficking situation in India, including recommended actions for the

government to take in preventing future trafficking. The Human Rights Commission also undertook a study of the sex tourism phenomenon in Goa, a popular international tourist destination. The National Commission for Women joined with the Maharashtra State Commission for Women in holding a workshop on sex tourism in that state.

Indonesia (Tier 2)

Indonesia is a source and transit country for men, women, and children trafficked internationally for the purposes of sexual exploitation and forced labour, 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 labour 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.

Prosecution

The Indonesian Government increased its law enforcement efforts against trafficking during the reporting period. Indonesia does not have a comprehensive anti-trafficking law, but a draft bill is currently pending before Parliament. Although Indonesian law criminalizes trafficking, it lacks a comprehensive definition of the crime. In 2004, the government reported 141 trafficking-related investigations, 51 prosecutions, and 45 convictions. The number of convictions reflected an 80 percent increase over the previous year's performance. Although law enforcement efforts increased, convictions for trafficking-related offences often carried light sentences, with an average sentence of just over three years' imprisonment. The Indonesian Government cooperated with the Malaysian Government in arresting and prosecuting a major network that trafficked

Indonesians into Malaysia for commercial sexual exploitation. Corruption and a weak judiciary remain serious impediments to the effective prosecution of traffickers. The government has recognized that action must be taken against officials involved in trafficking, but has provided little information concerning actions it has taken against corrupt officials who may be complicit in trafficking.

Protection

In 2004, the Indonesian Government improved its efforts to provide protection to trafficking victims despite limited resources. National and local victim assistance efforts increased, but remained small in comparison to the scope of the problem. Assistance for internal trafficking victims was minimal. The Indonesian Government continued to operate shelters for Indonesian victims of involuntary servitude and commercial sexual exploitation at its embassies and consulates in Singapore, Malaysia, Saudi Arabia, and Kuwait. The government also operates crisis centres inside the country and cooperates with domestic NGOs and civil society organizations that provide services for victims. The Indonesian Government continued to provide training to officials and law enforcement officers in the handling of witnesses and victims. The Women's Ministry also finalized standard operating procedures used to assist trafficking victims in 2004. Although Indonesia's national action plan calls for proper treatment of trafficking victims, implementation varies widely at the local level.

Prevention

The Indonesian Government made commendable efforts to promote public awareness of trafficking in 2004. The government increasingly used its National Anti-Trafficking Ambassador, a well-known television personality, to raise awareness of trafficking and of the need for more anti-trafficking efforts. Although the government has a limited ability to fund prevention programs, it welcomed international assistance and continued to work with NGOs on anti-trafficking and education initiatives. Most education campaigns focused on warning potential victims about trafficking. Some public education material in the campaign to stop child sex tourism in Batam and Bali contained messages for potential clients of prostitutes. Government-sponsored public awareness campaigns often featured senior officials and included television, radio, and print media.

Jordan (Special Case)

Jordan is considered a special case because full and accurate data on the extent and magnitude of its trafficking problem, which may be significant, is not available.

Jordan may be a destination country for women and girls trafficked from South Asia and South East Asia, primarily from the Philippines, Sri Lanka, and Indonesia, for the purpose of labour exploitation. According to the Jordanian Ministry of Labour, 218,000 permits were issued for foreign workers in 2004. Of this, 20,000 represent foreign domestic workers, a small number of whom might end up victims of involuntary servitude. Some domestic servants suffer conditions that meet the definition of

involuntary servitude, which is a form of trafficking. These conditions include but are not limited to: extended forced working hours, unpaid wages, sexual and physical abuse, and restrictions on freedom of movement, including the withholding of passports. Some abused foreign domestic workers run away from their abusive employers and seek shelter and protection at their embassies.

Government Action. A government steering committee that includes representatives from UNIFEM, NGOs, and source countries monitors and evaluates the conditions of domestic workers in the country. However, it is unclear if the committee systematically differentiates trafficking cases from labor disputes. It needs to do so and compile data to better understand the trafficking situation and recommend appropriate remedial action. In 2004, the Government of Jordan prosecuted some employers found to be abusing foreign domestic workers, closed down three recruiting agencies, and provided various forms of assistance to some trafficking victims. The government does not, however, provide shelter to trafficking victims. Such victims usually rely on their own embassies or friends for shelter. In an effort to raise awareness among employees and employers, the government is working with UNIFEM to produce a pamphlet highlight the rights of foreign workers in Jordan.

The Government of Jordan should conduct an assessment of the trafficking situation and, if appropriate, develop and implement a comprehensive anti-trafficking national plan of action that includes appropriate protection and prevention measures. It should also train its law enforcement personnel to systematically identify and prosecute trafficking crimes.

Republic of Korea (Tier 1)

South Korea is a source, transit, and destination country for women who are trafficked for the purpose of sexual exploitation. Women from Russia, the People's Republic of China (P.R.C.), the Philippines, Thailand, and other Southeast Asian countries are trafficked for commercial sexual exploitation to South Korea. Korean women are trafficked to Japan and to the United States, sometimes via Canada, for exploitation in prostitution. In recent years, the Government of the Republic of Korea has taken significant steps to address the problem, including through tightening of enforcement and an ambitious legislative campaign aimed at curbing trafficking and exploitation of women.

The Government of the Republic of Korea fully complies with minimum standards for the elimination of trafficking, and has recently taken measures to demonstrate its commitment to resolving the problem. The government has shown a steady commitment to support victims, prosecute traffickers, and strengthen national laws. In 2004, the South Korean Government showed leadership by passing and implementing sweeping anti-trafficking and anti-prostitution laws, which provided stiff sanctions for trafficking and prostitution and established an infrastructure of social, legal, and medical support for victims. The government has also coordinated closely with United States Forces Korea (USFK) in developing and implementing policy that addresses the problem of sexual exploitation of women in the Republic of Korea in areas surrounding USFK bases. Due to their leadership in tackling demand, the government recognizes that it must also make

efforts to provide more education and vocational training for thousands of women who have been trafficked for commercial sexual exploitation.

Prosecution

The Government of the Republic of Korea (R.O.K.) made greater efforts to prosecute trafficking-related cases over the last year. R.O.K. authorities used several statutes including the Criminal Code, the Law on Juvenile Protection, and the Act on Additional Punishment for Specific Crimes to prosecute traffickers. During the reporting period, the Ministry of Justice conducted 536 trafficking-related investigations, resulting in 71 prosecutions and 144 people currently serving sentences. The government implemented a new anti-trafficking law, the Act on the Punishment of Intermediating in the Sex Trade and Associated Acts, which provided for punishment of trafficking for commercial sexual exploitation and authorized the seizure of assets acquired through trafficking. The new law punishes those who use threats, violence, or debt bondage to force people into prostitution and declares that victims' debts to their employers are invalid. Punishments under the new law include up to ten years' imprisonment and fines of up to \$86,000. In 2004, the Korean military and the Korean National Police Agency (KNPA) continued their cooperation with the USFK in identifying brothels suspected of exploiting trafficking victims and barring U.S. soldiers access to them.

Protection

During the reporting period, South Korea continued to provide strong protective measures for trafficking victims. The government demonstrated the political will to combat trafficking and applied more resources to protect trafficking victims. The 2004 Act on the Prevention of the Sex Trade and Protection of its Victims authorized the establishment of assistance facilities and counseling centers to help victims reintegrate into society. Over the past two years, the South Korean Government has established 38 shelters for Korean victims of trafficking and two shelters for foreign victims. During 2004, a total of 505 women were sheltered in these facilities, which provide psychological counseling, board and lodging, vocational training, and legal aid. The government also provided significant funding for NGOs providing assistance to trafficking victims. In 2004, the Ministry of Gender Equality (MOGE) provided \$4.67 million to these NGOs. For foreign trafficking victims, the Ministry of Justice granted G-1 visas or suspensions of departure, which prevented victims from being deported from South Korea and encouraged them to cooperate with efforts to prosecute their traffickers. The government also took measures to protect trafficking victims who cooperated in prosecutions by prohibiting the disclosure of the victim's identity and allowing a closed-door hearing.

Prevention

The R.O.K. continued to expand its prevention efforts in 2004. The MOGE and the KNPA carried out regular briefings, policy seminars, and media interviews on trafficking. The MOGE worked with NGOs on a public education campaign to raise awareness

among victims of their rights under the new anti-trafficking and anti-prostitution laws and established a hotline for trafficking victims that included English, Russian, and Chinese interpretation services. The KNPA distributed educational materials to foreign women working in entertainment venues informing them of their rights and how to report any abuses.

Malaysia (Tier 2)

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.

Prosecution

During the reporting period, the Malaysian Government continued efforts to investigate and prosecute trafficking-related cases. Malaysia does not have a law that specifically addresses trafficking in persons but uses existing laws to prosecute traffickers. Twenty individuals were convicted under trafficking statutes in the penal code during the first six months of 2004. The penal code criminalizes most of the acts involved in severe forms of trafficking and those laws carry penalties of up to 15 years' imprisonment. In 2004, the government began to use new amendments to the 2001 Anti-Money Laundering Act to seize the assets of businesses involved in illicit activities, including trafficking. The Malaysian Government reported four such seizures in early 2004. Malaysia does not have a witness protection program that would encourage victims to testify against the criminal syndicates that are responsible for much of the trafficking. There were no reported prosecutions of officials complicit in trafficking.

Protection

In 2004, Malaysia provided an inadequate level of protection for most victims of trafficking. While police procedure is to send victims who can prove their nationality to embassy shelters rather than immigration detention, many victims, including some who agreed to cooperate in prosecutions, were placed in harsh conditions in immigration detention centers to await deportation. Because the police continued to lack the training and language skills to identify trafficking victims among illegal migrants, foreign trafficking victims often went unrecognized and were treated as immigration offenders. The Malaysian Government has not yet implemented a formal screening process to identify trafficking victims but Suhakam has developed a questionnaire for foreign women arrested for prostitution to identify trafficking victims. In December 2004, the Women's Ministry announced the establishment of a dedicated shelter for foreign trafficking victims, though the shelter has yet to open and care for victims. The Malaysian Government provided training for some of its higher-ranking officials but there was no systematic training program to sensitize front line police and immigration officers on trafficking.

Prevention

The Malaysian Government continued efforts to prevent trafficking through public awareness or education campaigns. The Malaysian Chinese Association (MCA), within the government's ruling political coalition, continued to publish warnings about trafficking in its Chinese-language publications, make public statements to caution potential victims about overly lucrative job offers abroad, and hold periodic press conferences highlighting the plight of returned Malaysian trafficking victims. In 2004, Malaysian state-run television ran a documentary on trafficking victims who had been assisted by MCA. The Women's Ministry is planning a nationwide campaign to increase public awareness on trafficking through seminars, workshops, and dissemination of brochures.

Mongolia (Tier 2)

Mongolia is a source and transit country for women and men trafficked for the purposes of sexual exploitation and forced labor; it also faces a problem of children trafficked internally for the purpose of commercial sexual exploitation. In 2004, the government documented over 200 Mongolian children exploited as prostitutes. Mongolian women are trafficked to China, Macau, and South Korea for commercial sexual exploitation. There are also reports that Mongolian women have been trafficked to Hungary, Poland, and other East European countries, as well as France and Germany. Some Mongolian men working overseas face exploitative conditions that meet the definition of involuntary servitude — a severe form of trafficking.

The Government of Mongolia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The Mongolian Government has acknowledged that trafficking is a problem and has tried to

improve its ability to address it. While the government engages NGOs and regional and international organizations on anti-trafficking measures, it lacks the resources to combat trafficking effectively on its own. The Mongolian Government does not systematically monitor its anti-trafficking efforts and some officials lack an understanding of what constitutes trafficking. Government action should concentrate on adopting a strong and comprehensive anti-trafficking law, arresting and prosecuting traffickers, and providing victim protection measures.

Prosecution

The Mongolian Government's law enforcement efforts against trafficking were modest during the reporting period. The government investigated four trafficking-related cases in 2004, but there were no successful prosecutions. Authorities have not developed the capacity to compile full information on trafficking-related arrests, prosecutions, and convictions. Mongolia's criminal code and criminal procedure code contain provisions against trafficking in women and children and prostitution, with penalties of ten to 15 years' imprisonment for trafficking and a maximum of five years' imprisonment for prostitution. The Ministry of Justice and Home Affairs, in coordination with the National Human Rights Commission, is currently reviewing the anti-trafficking provisions of the criminal code in an effort to strengthen the law and make it easier to prosecute traffickers.

Protection

The Mongolian Government did not provide protection and direct assistance to trafficking victims during the reporting period, largely due to resource constraints. The government did not fund foreign and domestic NGOs that provided support for victims.

Prevention

While there were no anti-trafficking campaigns conducted in Mongolia over the last year, the government worked with travel industry representatives and UNICEF to establish a voluntary code of conduct to prevent the sexual exploitation of children in the travel and tourism industry. The Mongolian Government recognized that trafficking is a problem, but it did not place a priority on trafficking prevention programs. During the last year, the government began developing a national action plan to combat trafficking and the commercial sexual exploitation of children.

Nepal (Tier 1)¹

Nepal is a source country for girls and women trafficked to India for the purposes of commercial sexual exploitation, domestic servitude, forced labor, and work in circuses. Many victims trafficked to India are lured with promises of good jobs or marriage. Others, including boys, are sold by family members or kidnapped by traffickers. Women are trafficked to Saudi Arabia, Malaysia, Hong Kong, the United Arab Emirates, and other Gulf states for domestic servitude. Internal trafficking for forced labor and sexual exploitation also takes place. Maoist insurgents continue to abduct and forcibly conscript

children. Reports indicate that internal trafficking is on the rise due to the insurgency, as rural women and children leave their homes and seek both employment and security in urban centers.

The Government of Nepal fully complies with the minimum standards for the elimination trafficking. Despite political and security challenges, the government has sustained its efforts to combat trafficking in persons. Nepal has a National Plan of Action to combat trafficking, a draft Human Trafficking Control Bill to strengthen its 1986 anti-trafficking law, and a National Rapporteur on trafficking. However, these commendable anti-trafficking efforts are hindered by political instability and security problems associated with the Maoist insurgency affecting a large part of the country.

Prosecution

Nepal's law enforcement efforts are commendable given the security and resource challenges that it faces. According to the Attorney General, in 2004, 133 trafficking cases were filed, 32 convictions handed down, and 83 are pending prosecution. In October 2004, a court in Makwanpur convicted a man for attempting to traffic two 16 and 17 year-old girls and sentenced him to ten-years' imprisonment. In March 2005, a court in Jhapa sentenced a man to a 15-year term and hefty fine after convicting him of selling a girl to a brothel in India. Nepal, although not a destination for child sex tourists, prosecuted one case involving sexual abuse of children by tourists in 2004. In January 2005, Nepal negotiated and initialed an extradition treaty and an Agreement on Mutual Assistance on Criminal Matters with India. Nepal has also established a Documentation and Information Center (DIC), which tracks trafficking cases at the district level. Nepal should take measures against some immigration officials, police, and judges suspected of trafficking-related graft and corruption.

Protection

The Government of Nepal works well with NGOs to provide protection assistance to victims of trafficking. In 2004, Nepal drafted a bill and accompanying policies and regulations to protect the rights of labor migrants, and rescued and repatriated (in collaboration with India and NGOs) more Nepali girls this year. The Nepali police in 2004 established Women and Children Service Centers in 15 districts to enhance anti-trafficking law enforcement, public awareness, and counseling activities at the district level. These centers provided training on victim support methods to local police and NGOs and the government has plans to create similar centers in four more districts.

Prevention

During the reporting period, Nepal made progress in its efforts to prevent trafficking. The government has identified 26 high-priority districts as source areas of trafficking and established anti-trafficking "Vigilance Committees." It also requires all workers traveling abroad to attend orientation sessions on safe migration that help prevent trafficking and conducts national and regional information campaigns on trafficking. Planete Enfants, an

EU-funded NGO, collaborates with the government in conducting campaigns to educate girls about trafficking in 19 districts. UNIFEM, in coordination with the government, conducts campaigns to target potential victims and deter traffickers by advertising potential 20-year punishment for trafficking. These efforts resulted in the interception and rescue of potential victims and in eroding the stigma associated with being a trafficking victim.

¹ Despite setbacks in other areas, Nepal has over the years made steady progress in its efforts to combat trafficking, as the problem affects thousands of its young population. Other serious human rights problems in Nepal are reported and analyzed in the annual Human Rights Report, available at: www.state.gov/drl/hrr

The Philippines (Tier 2 – Watch List)

The Philippines is a source, transit, and destination country for men, women, and children trafficked for the purposes of sexual exploitation and forced labor. Philippine women are often lured abroad 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 women trafficked into the sex trade. Philippine men and women who go overseas to work in domestic service and the construction and 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 (P.R.C.) 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 on 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 state prosecutors to focus on trafficking-related cases and providing training to law enforcement officials on the anti-trafficking law. The Philippine Government should take immediate corrective action by arresting, prosecuting, and convicting traffickers and any public officials found to be involved in trafficking. The 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.

Prosecution

During the reporting period, the Philippine Government made increasing efforts to implement its anti-trafficking law; the number of trafficking-related prosecutions under the anti-trafficking law remained low, although there were other prosecutions under legislation related to child abuse and illegal recruitment. There were no reported convictions under the anti-trafficking law of 2003. The government dedicated four state prosecutors to focus on trafficking-related cases and provided training to law enforcement officials on the anti-trafficking law. Currently, there are 28 cases under investigation. The Department of Justice is prosecuting at least 15 cases under the anti-trafficking law and other statutes related to child abuse and illegal recruitment. Corruption and a weak judiciary remain serious impediments to the effective prosecution of traffickers. Despite widespread allegations of law enforcement officials' complicity in trafficking, the government reported no prosecutions of trafficking-related corruption.

Protection

The Philippine Government continued to sponsor impressive protection efforts for trafficking victims in 2004. The anti-trafficking law passed in 2003 recognizes trafficked persons as victims and does not penalize them. Despite limited resources, the Department of Social Welfare and Development (DSWD) continued to provide a range of protective services, including temporary residency status, relief from deportation, shelter, and access to legal, medical, and counseling services. With assistance from the Department of Foreign Affairs, the DSWD also established arrangements with NGOs in destination countries to provide overseas Philippine workers who had been exploited with temporary shelter, counseling, and medical assistance. The government also provided additional protective services, including telephone hotlines for reporting cases of abused/exploited women and children. The Philippine Government increased its efforts to train law enforcement officials and consular officials in all of its embassies to deal with trafficking victims.

Prevention

The government continued modest efforts to raise awareness of trafficking. Senior government officials frequently spoke out about the dangers of trafficking. Fourteen government agencies also coordinate the government's anti-trafficking efforts, much of which is prevention-oriented. The Philippine Government's information campaign on overseas employment resulted in a decline in illegal recruitment and recruitment violations. The government has a national action plan to address trafficking in persons.

Qatar (Tier 3)

Qatar is a destination country for men and women trafficked for the purpose of labor exploitation and young boys trafficked for the purpose of exploitation as camel jockeys. Women and men who work as domestic servants, some of whom fall victim to involuntary servitude, come largely from Bangladesh, Ethiopia, India, Indonesia, the

Philippines, and Sri Lanka. Male laborers, some of whom become trafficking victims, come from Bangladesh, Egypt, India, Nepal, Pakistan, the Philippines, South Africa, Sri Lanka, Jordan, and Syria. Children trafficked to Qatar for exploitation as camel jockeys come primarily from South Asia and Sudan. Some foreign workers suffer conditions of exploitation — such as excessive hours, late or nonpayment of wages, physical and sexual abuse, and withholding of passports — that constitute involuntary servitude, a severe form of trafficking. Child camel jockeys are overworked, malnourished, and physically abused. Some have been thrown from the camels they rode and suffered serious neurological damages. Most no longer remember where they came from.

The Government of Qatar does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so. During the rating period, the government failed to show evidence of significant efforts to combat identified severe forms of trafficking on the three fronts of prosecution, protection, and prevention. A 2003 National Action Plan remains unimplemented. The Government of Qatar does not collect statistics on persons trafficked into the country, making it difficult to assess its efforts to combat the problem. According to official diplomatic sources and NGOs, there have been no rescues of the estimated 75-250 child camel jockeys, nor have there been any prosecutions of the traffickers behind the trafficking of camel jockeys. Some government officials own the camels participating in the races in which young boys are used as camel jockeys. The government provides no shelter for trafficking victims; instead, it detains and punishes trafficking victims for immigration violations. The government needs to enact and enforce a comprehensive trafficking law that criminalizes all forms of trafficking and provides for protection of trafficking victims. The government should institute a formal system to identify, care for, and repatriate these victims, including domestic workers and child camel jockeys. The government should also take much stronger steps to investigate, prosecute, and convict those responsible for trafficking crimes.

Prosecution

During the reporting period, the Government of Qatar took negligible steps to investigate, prosecute, and punish traffickers. There is no law banning the trafficking and exploitation of children as camel jockeys. Although other laws, such as the criminal law that makes employment of children under age 16 illegal, could be used to prosecute trafficking-related crimes, Qatar has not used them effectively. The Government of Qatar handled two criminal cases against trafficking in 2004. In the first case, an Indonesian housemaid was beaten by her sponsors; the sponsors admitted guilt and are now in detention while the case remains under investigation. In the second case, a Qatari employer was convicted of burning an Indian housemaid to death, sentenced to three years' imprisonment, and fined the equivalent of \$17 — inadequate penalties for a serious trafficking-related crime. Qatar's anti-trafficking Implementation Committee reportedly sponsored training for judges on prosecution of trafficking-related offenses.

Protection

The Government of Qatar provides minimal protection to victims of trafficking. There are no shelters to help victims. The government incarcerates runaway foreign trafficking victims at its detention facilities and attempts to resolve labor-related disputes through mediation. In cases where abuses are proven, the government allows victims to change employers. However, no measure is taken to investigate, prosecute, and punish physical and sexual abuse of victims. In one instance, a Philippine housemaid was arrested while filing a complaint against her employer for non-payment of five years of wages, after the employer charged that she had absconded and was working for another employer.

Prevention

In 2004, the Government of Qatar did little to prevent trafficking and trafficking-related offenses. The government cooperated with the quasi-independent National Human Rights Committee and the Qatari Foundation for Women and Children Protection (QFWCP), which did some work to promote the rights of victims. In 2003, the government established a National Plan to address trafficking in persons, including increasing public awareness of trafficking, providing information on trafficking at national entry points, establishing an effective hotline for filing complaints, and ending the camel jockey problem. The plan also called for the training of judges on trafficking issues; the government held a workshop to that end. Most elements of the plan, however, have not been implemented. For example, the position of prosecutor for trafficking issues was created, but no appointment was made. The QFWCP advertised through local papers the establishment of a hotline for filing complaints; however, reports indicate that calls to the hotline are not answered.

Sri Lanka (Tier 2)

Sri Lanka is a source country for women and children who are trafficked internally and to the Middle East, Singapore, Hong Kong, and South Korea for the purposes of coerced labor and sexual exploitation. Small numbers of women from Thailand, China, Russia, and other former Soviet states are trafficked to Sri Lanka for sexual exploitation. Boys and girls are victims of sexual exploitation by pedophiles in the sex tourism industry. Trafficking takes place in areas controlled by both the government and the Liberation Tigers of Tamil Eelam (LTTE). The LTTE continued to traffic children into forced labor and military service, taking at least 100 children after the tsunami in December.

The Government of Sri Lanka does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. In LTTE-controlled northern and eastern Sri Lanka, the government was unable to enforce anti-trafficking measures during the reporting period. Sri Lankan officials have taken strong measures in the wake of the December 2004 tsunami to prevent the trafficking of children made vulnerable by this natural disaster. Reports indicate that certain airline officials and NGO representatives have been allegedly involved in trafficking. The government should

develop a comprehensive national plan of action to combat trafficking and appoint a national coordinator to oversee implementation of the plan.

Prosecution

Sri Lanka continued to make progress over the reporting period. The government uses various means to monitor and apprehend traffickers, including making effective use of its CyberWatch Project, which relies on a "watch list" database of suspected sex offenders. However, the government achieved no prosecutions or convictions related to trafficking during the reporting period. It encourages victims to assist in the investigation and prosecution of trafficking cases. The government, however, has not provided any specialized training to its officials responsible for combating trafficking. The government should stop imposing fines on women trafficked for sexual exploitation.

Protection

Over the reporting period, the government made commendable progress in protecting victims of trafficking, considering its limited resources. Sri Lanka provides child victims with monthly food supplements and uses various means to shelter victims. It runs rehabilitation camps that offer medical and counseling services to victims of internal trafficking, and places victims in shelters run by NGOs. Sri Lankan diplomatic missions abroad operate shelters for its nationals who have fallen into trafficking situations. Sri Lanka established a new Child Protection Unit within the Attorney General's Office in 2004 to combat child trafficking, allocated additional funds and resources to the anti-Human Smuggling and Investigation Bureau, and continued to assign welfare officers to assist victims in destination countries. The government provides some compensation for victims of sexual or labor exploitation who register with the Sri Lankan Foreign Employment Bureau.

Prevention

The government improved its prevention measures by creating and empowering a new Child Protection Unit within the Attorney General's Office. It made commendable effort in the aftermath of the December 2004 tsunami to prevent increased trafficking. The government arrested a U.S. national and an Australian for allegedly engaging in pedophilia; both await trial. Sri Lanka works well with the ILO, IOM, and local NGOs that endeavor to promote prevention programs. It has instructed its welfare officers in embassies abroad to educate Sri Lankan nationals about their rights and responsibilities while working in those countries, in an effort to prevent them from falling into involuntary servitude or exploitative situations.

Thailand (Tier 2)

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.

Prosecution

During the reporting period, the Thai Government increased its law enforcement efforts against trafficking. Thailand has a law specifically prohibiting trafficking. In 2004, the government reported 307 trafficking-related arrests, 66 prosecutions, and 12 convictions – an increase in arrests over the previous year's performance. Sentences handed down for trafficking cases remained light, with an average sentence of three years' imprisonment. However, a number of sentences in trafficking cases were severe, with imprisonment of up to 50 years. In early March 2005, a Thai court convicted a Cambodian woman for trafficking eight Cambodian girls to Thailand and Malaysia; the trafficker was sentenced to 85 years' imprisonment. As in previous years, the Thai Government made minimal progress in reducing trafficking-related corruption in the police, immigration services, and judiciary. Law enforcement officials continued to be implicated in facilitating trafficking, but only one police officer was convicted and sentenced to ten years' imprisonment over the past year; prosecutions of 18 others fired in 2003 for complicity in trafficking continues. Thailand is not able to adequately control its long land borders.

Protection

In 2004, the Thai Government continued to provide commendable protection to trafficking victims. The government continued to operate 97 shelters throughout the country for abused women and children, six regional shelters for foreign trafficking victims, and a central shelter outside of Bangkok with capacity for over 500 foreign trafficking victims. The government reportedly identified and provided protection to 108 women and children since the November 2004 institution of the new screening mechanism. Thailand's overseas missions continued to provide support to Thai victims who wish to return home, but limited funding is available to assist their repatriation. The government also provided police and consular officials with training on trafficking issues and dealing with victims.

Prevention

The Thai Government continued its efforts to raise awareness of trafficking. In 2004, the Thai police began an information campaign, which included the distribution of pamphlets and creation of a hotline for reporting suspected cases. The government also continued to support the work of NGOs and international organizations to carry out public awareness campaigns and provide victim support services.

Background Paper: Consideration of the issue of trafficking

Prepared by Anne Gallagher for the Advisory Council of Jurists
November 2002

Extract: Possible Recommendations for further action by national human rights institutions to prevent trafficking and protect the rights of trafficked persons.

The former High Commissioner for Human Rights, Mary Robinson, identified National Commissions as “an under-utilized resource in the fight against trafficking”². The remainder of this section highlights some of the ways in which national commissions, particularly member institutions of the APF, could work to prevent trafficking and to protect the rights of trafficked persons. These proposals do not set out to be either prescriptive or exhaustive. Their purpose is to identify possible strategies with reference to the key functions with which national commissions are entrusted: educating about human rights; advising governments and receiving and acting on complaints of human rights violations. A final section looks at the ways in which national institutions can work together on this issue. Two preliminary remarks are in order. First, it is important to recall that trafficking and related practices are often invisible. Management and staff of national institutions must be aware of the problem and be proactive in their approach. Second, trafficking is essentially a gendered issue in that it reflects gender-based imbalances between men and women and disproportionately affects women and girls. National Institutions will not be able to deal with this problem effectively unless they have integrated a gender perspective into their own programs and methods of work³.

Educating about human rights and human trafficking

All national commissions in the Asia Pacific region are mandated to undertake human rights education and training. Integration of trafficking issues into training and dissemination programs should be a priority in significant source and destination countries. Key target groups for sensitization and training in the human rights aspects of trafficking (both causes and responses) include public officials (police, prosecutors, the

² UN High Commissioner for Human Rights, address to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, Geneva, 1999.

³ See Asia Pacific Forum of National Human Rights Institutions, “The role of national institutions in advancing the human rights of women”, presented at Asia Pacific Forum Fourth Annual Meeting, Manila, the Philippines, 6-8 September 1999. See also Commonwealth Human Rights Initiative, “Balancing the scales: Gender composition of Commonwealth National Human Rights Institutions” (2001).

judiciary, immigration officials, consulate staff) as well as civil society groups including the media, educators, NGOs and community leaders. Consideration could usefully be given to undertaking training-of-trainers programs in order to empower local community groups to conduct sensitization activities - as it is these groups who are often in closest contact with victims and potential victims of trafficking.

A contextual approach should be taken to training and sensitization activities in order to properly incorporate and reflect the human rights and gender aspects of trafficking. This means that trafficking should not be considered as a separate or distinct “issue” but rather understood within the broader context of human rights, particularly the rights of women and children. The connection between trafficking and violations of human rights is too clear to be ignored. The capacity for different groups to further aggravate the violations already suffered by trafficked persons should be highlighted and explored through the training process⁴.

As noted in Part Four of this paper, many countries with an APF-member institution have adopted legislation aimed to prevent trafficking, prosecute traffickers and protect the rights of trafficked persons. National institutions have an important role to play in educating relevant officials and the general community about these laws as well as providing guidance on their effective implementation.

Monitoring and advising governments

Governments have a critical role to play in the fight against trafficking. National Institutions can use their position, resources and authority to provide governments with inputs, which will enable them to make wise legislative and policy choices. They can also be influential in shaping and directing a government’s overall approach to the trafficking issue, in ensuring, for example, that trafficking is perceived and responded to as a human rights problem and not just as an issue of migration, of public order or of transnational organized crime.

Priority should be given to reviewing relevant domestic laws with a view to identifying gaps and weaknesses, in particular, with reference to international human rights principles and standards. National institutions could use the High Commissioner’s *Recommended Principles on Human Rights and Human Trafficking*⁵ as a guide and

⁴ Law enforcement practices, for example, can hinder rather than support trafficked persons in their attempts to escape an exploitative situation or seek redress for damage. The media can likewise be a source for harm rather than good. The portrayal of trafficked persons in the media is typically sensationalized and designed to titillate. It objectifies victims and violates their right to dignity and privacy. Rather than promoting community understanding of the trafficking phenomenon, the media in many countries has contributed towards simplifying the issue and preventing debate about the structural and political factors which sustain trafficking and related exploitation. National institutions have a role to play in showing these and other groups a different way of doing their job.

⁵ Principles and Guidelines, *supra* note 16.

checklist in this process. In addition to specific anti-trafficking legislation, attention should be paid to laws relating to immigration, emigration and prostitution. Other possible areas of attention for review would include the issue of extraterritorial legislation (to facilitate the prosecution of traffickers); birth registration and citizenship requirements (immediate registration and citizenship at birth in order to ensure that victims, particularly children, may exercise their right to return to their home countries); and laws relating to marriage, inheritance and labor conditions. It is, of course, important for national institutions to also go beyond the law by including consideration of related policies and practices.

Not all measures designed to prevent trafficking are legal, fair or successful. Anti-trafficking interventions can sometimes result in violations of basic human rights including the right to freedom of movement and the prohibition of discrimination on the basis of race, nationality and sex. As noted above, the High Commissioner's *Principles and Guidelines on Human Rights and Human Trafficking* foresee a central role for National Institutions in monitoring the human rights impact of anti-trafficking laws, policies, programs and interventions as well as in the development, adoption, implementation and review of anti-trafficking legislation, policies and programs⁶. National institutions should also monitor and warn against "knee-jerk" reactions from governments such as a denial of due process rights and draconian penalties for traffickers. A genuine rights-based approach demands that the human rights of all persons, including those suspected of trafficking, are respected and upheld.

General policy advice to government on the problem of trafficking can also be extremely useful. National Commissions could, for example, propose that governments include the issue of trafficking in national development and poverty alleviation programs as well as in National Plans of Action for Human Rights⁷. In countries of origin they could promote specific preventive initiatives aimed at increased access of vulnerable women and girls to education and genuine alternative job opportunities. In destination countries they could propose that industries which could have a connection to trafficking, such as leisure, tourism, media and computer communication industries be encouraged to develop codes of conduct - with clauses specifying monitoring and reporting mechanisms, to prevent direct or indirect involvement with trafficking. National institutions could also encourage governments in destination countries to investigate the "demand" side of trafficking. What are the factors that create and sustain demand for cheap exploitative sex and unregulated, exploitative labor?

⁶ *Ibid*, at Guideline 1.

⁷ Recommendations relating to national human rights plans were made at the 'Vienna Declaration and Program of Action' *supra* note 72. Paragraph 71 of Part II provided that:

"The World Conference on Human Rights recommends that each State consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights" ..

The SAARC Convention is an important *inter-governmental* instrument dealing specifically with trafficking in the region. As such, it is uniquely positioned to frame and promote the practical implementation of any relevant recommendations made by the Advisory Council of Jurists.

In order to maximize the effectiveness and usefulness of the Convention, and to instigate the full realization of the Advisory Council of Jurists' recommendations, the Council may wish to request that the Asia Pacific Forum Secretariat and any of its interested member institutions undertake an examination and review of the SAARC Convention, in light of the recommendations made by the Council at its meeting, and provide this review to SAARC for its consideration.

Investigating human rights issues connected to trafficking

All APF member institutions are mandated to receive and act upon complaints of human rights violations. Most are also empowered to undertake enquiries, on their own initiative, into particular human rights situations or issues. Both of these powers can be extremely important in highlighting the problem of trafficking and in providing redress to victims.

In relation to individual complaints, National Institutions must remain aware of the fact that the type of complaint received will usually reflect public perception of the institution's functions and principle areas of concern. A Commission which has never issued a public statement on trafficking; never included trafficking related issues in its training or dissemination programs; and never provided relevant policy advice to government should not be surprised if it receives no complaints on this issue. Nor should it assume on this basis alone that the problem does not exist. It is up to individual Commissions to use their other functions as a means of ensuring that the complaints procedure does in fact provide a reflection of human rights concerns within the community. Other considerations to be kept in mind include the fact that most trafficked persons are illegal or irregular immigrants. National Commissions should make special efforts to reach out to the immigrant community as normal communication channels are likely to be ineffective. The irregular status of most trafficked persons will also mean that they are wary of "official" channels. National Commissions should ensure confidentiality in the complaint procedure in order to encourage trafficked persons to come forward.

General Enquiries have proved to be a particularly useful way of gathering information on difficult or sensitive issues. National Commissions in major sending or receiving countries could consider undertaking such an enquiry into trafficking. The results from a study of this kind would provide valuable information on critical but often overlooked human rights issues.

Working together

While trafficking does occur between continents it remains essentially a regional issue. There is a consequential need to focus on regional and sub-regional approaches which aim, *inter alia*, to coordinate legislation and to improve cross-border cooperation - particularly as this relates to law enforcement and victim protection.

National Institutions within the Asia Pacific region are uniquely placed to contribute to regional and cross-border efforts to eliminate trafficking. The critical link between trafficking and human rights makes national institutions especially relevant players in relation to this issue. In some instances, national institutions cooperating together may well be providing important leadership to other key players including police, judicial and immigration authorities which often find it difficult to move from expressions of intent to action. Cooperation between national institutions could be both bilateral and multilateral and could range from information exchange to joint projects aimed at preventing trafficking (by addressing both demand and source factors) and protecting the rights of persons who have been trafficked.

The Asia Pacific Forum of National Human Rights Institutions, as the body representing and working for the national institutions of the region, also has an important role to play. In addition to promoting and coordinating cooperation between national institutions on this issue, the APF could decide to contribute, substantively, to the development of international law and policy as it relates to trafficking. The decision to pass this issue to its judicial advisory body is an important step forward in this respect. The follow-up which this initiative receives will be critical to determining its eventual influence both within and beyond the region. Finally, on this point, the APF could consider, as a body, taking up the suggestion of the High Commissioner for Human Rights and endorsing or adopting her *Recommended Principles and Guidelines* as a framework and reference point for its work and that of its member institutions in this area.

Recent News

Net to help catch human traffickers

By Kylie Morris
BBC News, Bangkok

The world wide web has become the latest frontier in the fight to combat human trafficking.

Anti-trafficking campaigners are counting on the launch of a new web portal to connect agencies trying to protect and support victims, and prosecute traffickers.

Tipinasia.info explains trafficking laws in different Asian countries.

The multilingual site, currently in Thai, Khmer and English, lists a directory of people working in the field in different parts of Asia, and describes what it is like to be caught up in trafficking.

It highlights the case of men taken onto fishing boats in Thailand who live in appalling conditions, and receive no pay.

They live under threat of execution - anyone who complains risks being shot, or thrown overboard. They work 24 hours a day and rarely come ashore.

The website relates the story of two brothers who were sold into virtual slavery for \$150 each.

While young women forced into prostitution are often the focus for anti-trafficking campaigners, the crime applies to any use of labour where people are coerced by threats or the use of force.

Net's Asian popularity

James Klein from the organisation which set up the website, the Asia Foundation, said is designed to raise awareness of trafficking and allow for information to be shared about the problem.

"Ten years ago, this wouldn't have been the answer. But now, throughout Asia, the internet is big - even in countries like Cambodia.

"Therefore, if you're really trying to communicate across borders, the easiest and the least expensive way for this to happen is over the internet," he said.

Mr Klein said there were plans to split the site into public and private fields. In this way, fieldworkers can share sensitive information over the web, without it falling into the hands of traffickers.

For example, he said, "a raid might happen here in Bangkok, and a group of Cambodian girls found. Those names could be transferred to the appropriate people, whether they be officials or non-government agencies in Cambodia, and plans made to transport them back, and return them to the general population."

In many cases, however, it is clear that officials become complicit in trafficking.

Dr Klein said the website could help to combat that with its directory, which lists tested and trusted officials in countries which have a record of helping victims.

Finally, officials in Cambodia and Thailand are starting to recognise victims of trafficking as such, rather than as illegal migrants, says the Asia Foundation.

According to Dr Klein, "the number one issue remains changing attitudes of people, so they know what trafficking is, and apply procedures accordingly."

The hope is that Tipinasia.info might encourage more people with power to do that.

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/asia-pacific/4652803.stm>

Published: 2005/07/05 13:29:23 GMT

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Thai Government Pursues Human Trafficking Legislation¹

The Thai government demonstrated its commitment to combating human trafficking by announcing that it was preparing a comprehensive draft human trafficking prevention bill for submission to the next roving cabinet meeting in mid-June.

After a two-hour session of the human trafficking prevention and suppression committee chaired by Deputy Prime Minister Surakiart Sathirathai, Mr. Jakrapob Penkair, Deputy Secretary-General to the Prime Minister, announced that the committee had agreed to accelerate the passage of the legislation, which will go before the cabinet when it meets in the country's northern province of Phayao on 13–14 June.

Although previous legislation has addressed human trafficking, including the 1996 Prostitution Suppression and Prevention Act and the Children and Women Trafficking Prevention and Suppression Act, these have not addressed all forms of human trafficking, which the new law sets out to do.

The new legislation is said to be more modern than existing laws, while also ensuring that human traffickers undergo tougher penalties.

The meeting also called on government agencies to boost the effectiveness of tools designed to counter human trafficking, with each agency producing its own operations manual and working in conjunction with other agencies.

Under the committee's plans, the Ministry of Social Development and Human Security will house a central human trafficking prevention and suppression centre, while at a regional level provincial governors will be expected to take on a similar position.

In addition, foreign diplomats will be asked to act as centres against human trafficking abroad.

The government has recently earmarked Bt100 million from the sale of special government lottery tickets to help the victims of human trafficking, and the government is also working to combat trafficking in neighbouring countries, with an agreement already signed with the Laotian government and further deals with Burma and Cambodia in the pipeline.

¹ MCOT News, 26 May 2005

Trafficking of Afghan and Pakistani girls to Gulf states

The Friday Times, May 9, 2001

Iqbal Khattak

A report says Pakistan is the destination point for girls being trafficked into the country from Bangladesh, Burma, Afghanistan and the Central Asian States. It is also the transit point for girls brought in from Far East Asia and Bangladesh before being smuggled into the Gulf states. The report also says the country has become a recruiting ground for Pakistani and Afghan girls who are bought here and taken to the United Arab Emirates and Saudi Arabia.

The North West Frontier Province is witnessing a steady rise in cases of women trafficking for prostitution purposes, reveal surveys done by some NGOs. While the majority of the girls forced into the trade is Afghan, the number of native girls is also on the rise.

Last year, a survey conducted by Aurat Foundation, an NGO working on women's rights, brought to surface 39 cases of women trafficking in the NWFP. However, the Foundation spokesperson told TFT the survey was not comprehensive. "It is extremely difficult to unearth all such cases for a host of reasons," she says.

Investigations confirm that Peshawar, Chitral, Swabi, Mardan, Charsadda, Swat and Bannu districts top the list in the sale and purchase of girls as young as 13-year-olds. While some are taken to the Punjab after being "married off" and abused, in most cases they end up in the Gulf states for prostitution purposes.

Sources say the seriousness of the situation can be gauged from the fact that a top intelligence agency has been asked to conduct investigations into the business. As recently as August 16, the police arrested an Afghan girl and her pimp at Peshawar airport after being tipped off by this agency.

The man, Murtaza Wasee, is a resident of Saadat Colony in Karachi and has been booked on the charge trafficking young girls. Misbahuddin, the coordinator of Citizen Action Committee for Women's Rights in Charsadda district, told TFT that last year two cases were reported when girls sold out to parties in the Punjab fled their captors and came back. This year, three other cases of girls trafficked to Punjab have been reported in the district.

In some instances, interested parties take advantage of the poverty of the parents and the tradition among some tribes of selling off girls for a price.

Some reported cases reveal the girls were married off to one person who then used them to entertain other customers.

In the federally administered Mohmand Agency, brokers have traditionally organized a fair where parents bring their girls and the clients pick them up on the basis of beauty, age and such other factors. The fair was declared illegal a few years back but it continues on the sly in many areas of the Agency.

“Parents bring their daughters to the fair where buyers pick up the best merchandise,” a source at Ghalanai, headquarters of Mohmand Agency, told TFT earlier this month.

A ‘Situational Analysis’ on trafficking of Women and Children in Pakistan by ActionAid Pakistan says the issue is grave and complex and needs to be addressed at various levels. The report says Pakistan is the destination point for girls being trafficked into the country from Bangladesh, Burma, Afghanistan and the Central Asian States. It is also the transit point for girls brought in from Far East Asia and Bangladesh before being smuggled into the Gulf states. The report also says the country has become a recruiting ground for Pakistani and Afghan girls who are bought here and taken to the United Arab Emirates and Saudi Arabia.

Police officials confirm these findings. A senior police officer from the Crimes Branch told TFT that scores of Afghan girls are trafficked to five-star hotels in Dubai every month. “Dubai is where girls from various countries, including Eastern Europe and Russia, end up,” he said. This fact was confirmed by TFT last year during a brief stay by one of its reporters at one of the five-start hotels in Dubai. The hotel’s discotheque was teeming with girls who were being picked up by clients.

In the case of girls trafficked from NWFP, the passports are prepared at Darra Adamkhel located in the Orakzai Agency on Peshawar-Kohat Road. Darra is also famous for arms manufacture and smuggling.

Sources in Kabul told TFT that most upper-class Afghan women in that city have taken to prostitution since falling upon bad days. “Of course, the trade goes on surreptitiously. It’s the same situation in Herat and the Mazar,” he said.

Senior police officers admit the trafficking cannot go on without the collusion of certain law enforcement officials. “There are many factors involved here. Of course there is the element of corruption. But there is also the element of poverty and greed of the parents who are prepared to accept money from

unknown people and marry off their daughters to strangers. There is nothing the police can do if it looks like a lawful wedding,” says a senior officer.

Further Reading

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