

## CONSULTATION WORKSHOP: ACCESS TO JUSTICE FOR VICTIMS OF TRAFFICKING - CHALLENGES AND STRATEGIES

BANGKOK, JUNE 7 - 9 2006

As worldwide momentum for combating human trafficking has increased dramatically, governments and advocates have emphasised the importance of prosecutions as both deterrence and a show of strength. Little attention has been given, however, to the experiences of the trafficked person. Investigations and trials can take an enormous toll on victims of violent crimes, but obtaining justice can also be empowering. What is the story in human trafficking cases? Do investigations and trials advance the rights of trafficked persons or impinge further on those rights?

GAATW has had more than ten years of experience of looking behind claims about trafficking and anti-trafficking, and centering the perspective of trafficked women in its advocacy. To this end, between 7 and 9 June 2006, GAATW brought together in Bangkok individuals from around the world who had direct experience of taking trafficking cases to court to give their views on this issue.

The **objectives** of the Consultation Meeting were:

- To further our understanding of how and to what extent victims in different countries are accessing the justice system;
- To create a forum where experts in the area could share ideas and experiences;
- To bring into the debate the voices of trafficked women who have been through the legal process;
- To work out priorities and strategies for future advocacy in this area.



Twenty-one participants from ten countries were able to attend the Consultation. They included three survivors of trafficking, lawyers, NGO support workers, a police officer and a prosecutor. The countries represented were India, Thailand, Cambodia, Brazil, Mexico, the United States, Spain, Russia, the Ukraine and Nigeria.

### The Program

The main focus of the Consultation was on learning from each other through sharing of experiences. On the first morning we heard a brief presentation from each team about its country context, including the trafficking situation, anti-trafficking activities and the legal framework. Participants compared different anti-trafficking provisions and penalties.

This contextual overview provided a basis for more in-depth discussion of three themes: the **right to access justice**, the experience of the **prosecution process** and the **right to compensation**. For each theme, three or four teams each presented a case that they had been involved in and explained the process, the outcome and the human rights impact and the group then discussed the case. These presentations centred, as much as possible, on the experience of the trafficked person who had gone through the process.

Prioritising **goals** and then designing **strategies** to meet each goal was the second focus of the meeting. For each theme, after the case-studies and discussion, participants divided into working groups in which they chose two main objectives for improvement in that area, and then devised at least two specific strategies. For example, in the working groups on access to justice, one group chose increasing knowledge of legal rights as an important objective and then training police as a strategy to meet this objective. This helped participants to realize that our energies must be focused - we do not have time to do everything - and also to analyse why we value some objectives over others. The debates were very lively, but surprisingly, results between groups were often similar.

On the final day, participants built on this experience to consider **global action** and advocacy, a new area for many participants. First, they identified risks and opportunities for advocating at the global and regional levels. They then divided into three working groups and spent two hours identifying goals for the next year, five years and ten years. Discussion was thoughtful and, for many, challenging. But, in the end, clear themes were identified.

### Key findings:

Listening to each other's experiences revealed many commonalities, despite our different systems and contexts:

- Overwhelmingly participants agreed that obtaining justice could be an essential step to claiming back life, but that the choice to seek justice should be the victim's alone. Many victims choose not to press charges or push their case and that should be respected.
- All countries seeking to tackle trafficking are doing it at least partly through their legal and court systems. Further, all advocates have the same general goals for these systems: comprehensive legislation, effective police action, successful prosecutions, adequate sentences and compensation. Different countries are achieving these goals to greater and lesser extents, but clearly lessons can be shared across jurisdictions.
- Anti-trafficking legislation was highly valued by teams that did not have such legislation in place, whereas for teams already working within such a framework, much more emphasis was placed on implementation.
- The vast majority of trafficking survivors do not enjoy their right to access the justice system. Problems with identification and poor legal knowledge mean that most victims never become aware of their rights. Even if they do, lack of training and resources to police, poor prosecutions, weak legal systems, discrimination and many other factors make bringing trafficking cases a long and arduous road.
- Even where a case is successful, it is extremely rare for a victim to receive restitution for the violations suffered. Of the three cases in which survivors presented their stories, none had received any compensation.



- The commitment of the trafficked person and her lawyer was essential to a successful case. In all cases, the survivor's determination, patience and courage to fight for her rights had been crucial to the case being finalized.
- Creative solutions - successful cases often relied not only on trafficking law but used labor laws, other criminal laws, the media and human rights bodies.
- Networking between NGOs and law enforcements, and between NGOs, both nationally and internationally, is essential to improving access to justice for victims.

### Looking forward:

Given that all participants work mainly in the domestic context, the focus of working group sessions came up with many suggestions for change at the national level. Encouragingly, participants were able to agree on common strategies here also:

- Lobby for specially trained prosecutors/judges to handle trafficking cases
- Focus training on prosecutors
- Promote interagency cooperation at the national level
- Improve consular services to protect the rights of trafficked persons
- Explore creative legal solutions: constitutional and labour law, commissions
- Lobby for a definition of trafficking that conforms to the Palermo Protocol.
- Lobby for more effective asset seizure laws and for the money from assets to be used to compensate victims.

### The Recommendations

Finally, the participants came up with a clear set of concrete recommendations to implement together at the global level. For each, the GAATW-IS will take the lead but will be supported by the participants and other members to make it happen:

- Produce a report of the workshop with detailed analysis of case-studies, highlighting good practice and recommendations, by September 2006.
- From the Report, produce a common paper for advocacy purposes by October 2006.
- Continue evaluating and summarizing international initiatives at the global and regional level around access to justice.
- Develop a plan for global advocacy in regional and international forums.
- Develop a contact database including information on contacts of law firms/lawyers representing trafficked persons, legislative and policy initiatives; information on cases that are running or have concluded and the methodology used to run the case;
- Develop partnerships between NGOs/legal organisations in origin and destination countries, which foster communication on specific cases and common advocacy goals;

### Closing



To end, Vicky Nwogu, the participant from Nigeria, sang a beautiful love song and participants said their goodbyes. The GAATW IS closed the meeting and wished all a safe trip home.

The GAATW-IS would like to thank everyone who participated in the Consultation for their amazing commitment and contribution. Special thanks also goes to Frans from Projeto Trama, who facilitated one session, and to guest facilitators Elaine Pearson from the ILO and Jackie Pollock from the Migrant Action Project.