

*From the United Nations High Level Dialogue on Migration and Development and the parallel Community Dialogue on Migration, Development and Human Rights...*

## **1: THE HIGH LEVEL AND COMMUNITY DIALOGUES**

This first issue brings to you news of the United Nations High Level Dialogue on Migration and Development and the parallel Community Dialogue on Migration, Development and Human Rights in New York, between 11 and 15 September 2006.

The GAATW delegation comprised five: Bandana Pattanaik and Eleanor Taylor-Nicholson from the International Secretariat, Jackie Pollock from the Migrant Assistance Programme based in Chiang Mai, Thailand, Michelle Guerardi from Projeto Trama based in Rio de Janeiro, Brasil, and Nicola Hadžiosmanović-Dobson from La Strada Bosnia. GAATW was the only anti-trafficking alliance present at the Community Dialogue, so this provided a great opportunity for meeting migrant rights organisations and exploring the links between migration and trafficking.

### **Migration and Trafficking, two different but related debates...**

From its inception, GAATW has conceptualized trafficking within the migration and labour framework and advocated for the rights of all migrating women. We have looked to the migrant rights and labour rights movement for opening up possibilities for jointly advocating for the rights of trafficked persons as well as all migrant workers. We recognise that many people who find themselves trafficked did so in the process of seeking to improve their situations: to find work and save money in another country, to see the world and find opportunity, to follow a trusted relative or friend to a presumed better life. The root causes of both trafficking and migration are often the same and therefore we believe that civil society organisations should work together to hold states accountable for their inability to provide employment to people, for their lack of political will to accept migration as a fact and their unwillingness to protect the rights of all migrant workers.

In 1999, GAATW published two handbooks; the Migrating Woman's Handbook and Human Rights in Practice: A Guide to Assist Trafficked Women and Children. While Human Rights in Practice has been widely used by NGO colleagues and is currently available in 7 different languages, the Migrating Woman's Handbook has reached women many communities. It has been translated, adapted and used by many migrating women in several Asian countries such as Indonesia, Thailand, Nepal and Bangladesh. Recently it has also been translated into Georgian. GAATW's member organisation Ban Ying has also been using a similar booklet in Germany. Many of our member organisations working at community level give out information on safe migration to working class men and women and advocate for better working conditions in all work places. GAATW's current programmes on Access to Justice and Socio-

Economic Rights of Women also have strong links with migration and labour: emphasising the duty of origin States to provide economic opportunities and protect their citizens, increasing safe migration options, and protecting labour rights in countries of destination.

### **The HIGH LEVEL DIALOGUE**

The High Level Dialogue was the first UN forum on migration and development and one of the only 'high level dialogues' ever to have been held. The aim of the HLD was to examine "the multi-dimensional aspects of international migration and development" in order to "maximize its development benefits and minimize its negative impacts." The HLD concept was largely the work of Jan Eliasson, the former President of the General Assembly, and Peter Sutherland, the Secretary-General's Special Representative for Migration (and the former Director-General of the General Agreement of Tariffs and Trade (GATT) and the World Trade Organization). Preparations for the HLD took several years and included numerous regional and thematic meetings, reports by the Global Commission on Migration and United Nations agencies, a Report by the Secretary General and an Informal Interactive Dialogue with NGOs in July 2006.<sup>1</sup>

Hopes for the meeting were, therefore, high - for it to be the beginning of an ongoing process of high-level discussion, debate and information sharing in a new global forum on migration and its link to development. As the Secretary-General, Kofi Annan said in his opening address to States: "I believe such a Forum can foster practical, evidence-based cooperation among governments. It can give you a chance to frame the issues in a way that allows you to move forward together, to discover areas where you agree, and to find ways of improving cooperation."

The format of the HLD was a mixture of plenary sessions, in which States gave their positions, with four roundtables on specific topics of migration and development, and a number of side-events by governments or UN Agencies. The three recurring themes in all sessions were outlined in a seminar held by the United Nations University the day before the HLD:

- brain-drain phenomenon for origin countries
- economic impact of migrants including remittances and their effect on wage levels in destination countries
- protection of the human rights of migrants.

These themes demonstrated the emphasis of the HLD on economic issues, evident in the organization of the HLD through DESA in New York, rather than the human rights institutions in Geneva.

Human rights and migrant rights were undoubtedly addressed in statements by all UN representatives and States, but only on a very general level. While States were happy to proclaim protection of rights, they then set out the good things they were doing. No destination country suggested a concrete plan to provide greater access to justice, regularisation, better treatment of migrants at the border or any other strategy that States could, and should, take to protect the rights of migrants. Indeed, the 1990 Convention on the Rights of Migrant Workers and their Families was barely mentioned.

### **Involvement of NGOs in the HLD**

NGO participation in the HLD was extremely restricted. NGOs were first limited to making statements at an "Informal Interactive Dialogue" in July 2006 in New York. The HLD itself was to be

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<sup>1</sup> See the official website at: <http://www.un.org/esa/population/hldmigration/>

entirely closed and government discussions not reported. Fortunately, after effective lobbying by the UN Non-Government Liaison Service in New York, this situation was improved: NGOs could observe the plenary sessions (although not make comments) and 2-3 civil society organizations could attend the roundtables. The selection of these representatives was made after the July interactive dialogue and intended to get representation from all regions and main interest groups. Each CSR had only two minutes to speak. CS representatives were as follows:

	<b>Roundtable</b>	<b>Civil Society Representatives</b>
<b>1</b>	International and Economic and Social Development	<ul style="list-style-type: none"> <li>○ Sharon Burrow, President, ICFTU, Australia</li> <li>○ Migration Ms. Olesya Kotsyumbas, International Center for Policy Studies, OSI/HESP Academic Fellowship Program, Ukraine</li> <li>○ Mr. David Arkless, Manpower Inc., UK</li> </ul>
<b>2</b>	Protection of the Human Rights of Migrants and Combating Human Trafficking and Smuggling	<ul style="list-style-type: none"> <li>○ Hassan Id Balkassm, President, Tamaynut Association and of IPACC (Indigenous Peoples African Coordinating Committee), Morocco</li> <li>○ John Bingham, International Catholic Migration Commission, Switzerland</li> <li>○ Pablo Ceriani, Migrant Rights International, Spain/Argentina</li> </ul>
<b>3</b>	Migration and Development, including remittances	<ul style="list-style-type: none"> <li>○ Chukwo-emeka Chikezie, AFFORD, United Kingdom</li> <li>○ Jackline Mugo, Federation of Kenyan Employers, Kenya</li> <li>○ William Gois, Migrant Forum in Asia, The Philippines</li> </ul>
<b>4</b>	Building Partnerships, Capacity Building and Sharing Best Practices, including at bilateral regional levels.	<ul style="list-style-type: none"> <li>○ Jacqueline Coke-Lloyd, Jamaican Federation of Employers, Jamaica</li> <li>○ Marioliva Gonzalez, Global Youth Action Network, Mexico</li> <li>○ Austin Fragomen, Fragomen Attorneys, USA</li> </ul>

Observers could not sit in the Roundtables but could watch via a CCTV link and could leave materials outside.

Given the crucial role that migrant rights advocates play in research, representation and advocacy, and the emphasis on consulting NGOs in UN resolutions,<sup>2</sup> the lack of NGO involvement was disappointing. It prevented States from having to engage in genuine 'dialogue' with civil society or having to address specifics of their policies. GAATW hopes that any follow-on forum will provide much more opportunity for dialogue with all involved in migration, particularly migrants themselves.

### **Roundtable 2: Protecting human rights of migrants; combating trafficking and smuggling**

Delegates from 39 countries attended Roundtable 2, the vast majority from countries of origin and with Italy, Sweden, Austria, Singapore and UAE being the main countries of destination represented.<sup>3</sup> The CS representatives presented the outcome of the Roundtables at a meeting after the HLD on Friday 15 September, organised by the NGLS. Review of Roundtable 2 suggests that most governments focused on trafficking because it let them describe their strong criminalisation efforts (and so blaming 'criminals' for the problem) rather than take any responsibility for the root causes of trafficking, smuggling or human rights abuses or their duty to protect human rights.

<sup>2</sup> For example ECOSOC Resolution 1996/31 states at Article 20: "consultative arrangements are to be made... for the purpose of enabling the Council or one of its bodies to secure expert information or advice from organizations having special competence in the subjects for which consultative arrangements are made, and ... to enable ... organizations that represent important elements of public opinion to express their views."

<sup>3</sup> A full list of participants and the Chairperson's report can be found at [www.un.org/esa/population/hldmigration/](http://www.un.org/esa/population/hldmigration/).

## Comments from the Civil Society Representatives on Roundtable 2

John Bingham, ICMC, representing faith-based organisations

I have three impressions/action steps from this roundtable:

1. We must stop seeing human rights as an isolated topic; human rights should be part of everything, a theme in every workshop.
2. We must avoid having discussions that are too broad - we should not mix migrant rights, trafficking and smuggling together, they are different issues.
3. We must not wait in the wings; we should form a participants group to increase civil society involvement in the follow-up processes.

Mr Hassan Id Balkassam, representing indigenous peoples

The Roundtable focused on the human rights of children and women, yet no one mentioned ratification of the Migrant Rights Convention. The majority of governments are not interested in granting human rights without discrimination - we need now to work together... we need to push for ratification of the convention and globalisation not just of money and people, but of human rights.

Pablo Ceriani, representing Migrant Rights International

I am concerned that human rights has become an isolated concern of governments. Although all of the governments in the Roundtable 2 focused their discussions on trafficking, no one mentioned human rights: only two or three States mentioned the Migrant Workers Convention, hardly any mention of undocumented workers although most governments were from origin countries, nobody mentioned economic or social rights and only one country mentioned trade policies (Cuba). I want to say again, human rights is the only way.

### What's next after the HLD?

Although the outcome of the HLD was unclear, it seems that a kind of forum will be created to continue the 'dialogue', likely to be held next year in Brussels. The President of the 61<sup>st</sup> Session of the General Assembly, H. E. Sheikha Haya Rashed Al Khalifa, closed the HLD by saying:

*During these two days, in your plenary statements and in your remarks in the round tables, nearly all of you have expressed the wish to continue an international dialogue in some form. Many of you have embraced the Secretary-General's proposal of establishing a Global Forum on Migration and Development and the offer made by the Government of Belgium to host the first meeting of the Forum next year. I commend your commitment to advancing this constructive dialogue on this important issue.<sup>4</sup>*

As well as the Secretary-General's proposal, the International Organization for Migration (IOM) had proposed an inter-governmental body under IOM management, perhaps within the structure of the World Bank. The actual features, status or location of the forum is not clear yet. However, whatever

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<sup>4</sup> Closing Statement By The President Of The 61st Session Of The General Assembly, H. E. Sheikha Haya Rashed Al Khalifa, Before The High-Level Dialogue On International Migration And Development, 15 September 2006, United Nations Headquarters, New York.

the nature of the forum, it is unlikely to have any teeth - for example, to make concrete recommendations or binding resolutions. It may simply be a research/information sharing forum.

Overall, the HLD was an interesting venture into the sensitive areas of migration and development, but was too State-led and economic in approach to provide any real hope that government policy, particularly in destination countries, will change to benefit migrant workers. Rather than substantive debate or genuine dialogue, States mainly presented position papers and avoided suggestions for practical change. The best that can be said of the HLD, according to the Special Rapporteur on the Human Rights of Migrants, was that it was a beginning.<sup>5</sup>

## **THE COMMUNITY DIALOGUE**

Fortunately, the Community Dialogue was as hopeful and constructive as the HLD was not. Between 11 and 15 September several NGOs, mainly from the US but also from other regions, came together in New York to discuss the connection between migration, development and human rights. Energy and enthusiasm were high and participants demonstrated real commitment to working together. As Cathi Tactuiquin (MRI ExCo) stated in opening the CD:

*In this conversation on migration and development, we want human rights, the rights of migrants and their families to be part of any ongoing discussion and activity. We will be reiterating this both inside and outside the event. We encourage everyone to participate in this process. This is a very rich community of experience with valuable knowledge and insight.*

The Community Dialogue was organised by Migrant Rights International (MRI) with the National Network for Immigrant and Refugee Rights (NNIRR) as the local host. The format of the forum consisted mainly of workshops - three sets of four workshops each - which discussed various aspects of migration, development and human rights. The meeting was opened with presentations describing the migration context in each region of the world, and a visit by the Special Rapporteur on the Human Rights of Migrants. As well as workshops and substantial discussions, MRI organised a social/cultural evening and a closing dinner.

Overall, the CD was an excellent opportunity for groups from around the world to look at philosophical and programmatic linkages and to analyse their work more deeply. The program was well-organised and varied, although the workshops at community forum often overlapped with the HLD events and there was not enough two-way flow of information. A wide range of groups was represented, however, more representation from the African Region, and more migrants themselves in the workshops, would have been valuable. GAATW expresses its thanks to MRI and its associates for putting on such an interesting and organised event.

Some samples of what was said and discussed are set out below:

### ***Some Views from the Regions***

At the opening of the Community Dialogue, representatives from NGOs working on migration in different regions gave some picture of the migration context. This highlighted how different the issues in each region were, as well as the universal need for improvements in human rights protections.

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<sup>5</sup> GAATW interview with the Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante, Geneva, 21 September 2006.

For example, representatives of mainly destination regions such as Western Europe, Oceania, the Middle East and North America spoke of the hypocrisy of governments who need migrant labour to sustain their industries (for example the famous Italian tomato is harvested primarily by undocumented workers from Darfur), but are making it increasingly difficult for migrants, particularly poor workers from poor countries, from entering. All regions are tightening border security, reducing labour protections and increasing deportations. Seta spoke about the Middle East spoke of widespread abuse of female migrants working as domestics on unfair contracts.

By contrast, Nune speaking of Africa, mentioned the push factors of war, political repression and lack of economic opportunity, together with the pull factors of wealth in western countries that was making people risk their lives by the thousands to emigrate. And, as it is illegal to leave from many countries without a permit, "when they get deported home they face long prison terms or even death".

**Speech by the Special Rapporteur on the Human Rights of Migrants, Mr Jorge Bustamante, 13 September**

At the opening of the Community Dialogue, Mr Jorge Bustamante, the Special Rapporteur appointed by the Human Rights Commission in July 2005 to look at the human rights of migrants, gave a thought-provoking speech to participants. He explained how migration is a rational action or behaviour and this should be the basis of policy. It is also an international phenomenon but governments continue to see it only as a domestic problem and take unilateral action, so their solutions do not work.

He also pointed out that one of the biggest problems for migrants is the low level of ratifications of the Convention on the Rights of Migrant Workers and their Families: "*No important country of destination has ratified the Convention. This implies a new division of the world [between origin and destination countries]. Countries are in fact getting organised NOT to ratify the convention.*"

Mr Bustamante pointed out how migrants and civil society were being excluded from the policy discussions at the HLD and that this presented the community with challenges:

*One of the most important challenges we have is to improve the level of communication - to raise the consciousness of our civil societies, of those who claim to have a high level dialogue from which migrants and who have been virtually excluded ... The physical distance we have from the UN building is symbolic of our distance from the discussions in the HLD. We have been excluded - we must approach this in a way to become more effective.*

*Our civil societies, migrants themselves, are not responding to the things we are talking about here. Why do we have this condition of powerlessness as the common denominator among us? ... We have to reflect on that, and communicate for efficient action. We have not been able to be recognised as a community of human beings ... The migrants of the world are a very powerful group, in numbers and in financial terms. But we are not connected with that - we need to communicate to communities of migrants that we need them as much as they need us - we need a share of their power.*

## **An Interview with Jackie Pollock (MAP Foundation, Chiang Mai)**

1. How does your work relate to migration and development?

While migrants may be in a country other than their own when we meet them in our work, this does not in any sense exclude them from development processes. Migrants should be able to organise themselves around any of the issues associated with development and in our context this is usually on the following issues: labour rights, women's rights and inclusion in decision making at family, community and political level, peace building and building healthy communities.

2. Why did you attend the HLD and Community Dialogue and what were you hoping to achieve?

I attended the HLD and Community Dialogue with the hope that civil society could be fully informed of the processes in the UN to be able to feed back to our communities (migrant and local) and that civil society might be able to make a stand for inclusion and representation in decisions made on migration, labour and development. I had hoped that we as civil society would have talked more about processes than issues, and had a consultation on the way forward.

3. Did the HLD and the Community Dialogue meet your expectations? What was the highlight and also what would you most like to have seen done differently?

The Community Dialogue was an opportunity to share with migrant support groups from around the world and to build solidarity between migrant groups, however there was too little interaction between the HLD process and the community process to reach my expectations. One simple addition to the event might have been to add a day at the end of the event, to firstly get a debriefing from our representatives in the HLD and secondly to collectively work out future steps and strategies. We might have needed to decide how we can develop together to be representative, to make efforts to bring African groups into the discussion and to decide on which way we should go forward.

## **Workshop On War And Armed Conflict And Its Impact On Local And Migrant Populations, 13 September 2006**

This discussion looked both at situations of open armed conflict, and long-term political repression.

On the former, Seta and Manori told of the situation of migrant workers during the recent war in Lebanon. Seta, who works with unskilled and semi-skilled workers, 90% of who are women, told of their status as invisible members of Lebanese society. When the conflict began, most employers fled and left them behind and the response of embassies was mixed - some countries do not have embassies in Lebanon and others could not afford to pay for migrant workers to return home. Many migrants did not want to leave because they would lose their employment. Seta pointed out that war and armed conflict have become an everyday reality in Lebanon so migrant workers have been pouring in despite the violence to take up various kinds of unskilled, semi-skilled and skilled work. In fact, war had a levelling impact on many migrants - the differences among people were temporarily forgotten.

Jamil, and Ricardo spoke of impacts of long-term violence on migrant workers. Jamil, an Israeli citizen of Palestinian origin, who works for the American Civil Liberty Union said that 250,000 Israeli citizens are of Palestinian origin and do not enjoy full citizenship rights. The conflict has led to discrimination against Palestinian migrants - they are placed in an adversarial relationship with other migrants and Israel has been actively seeking migrants from other countries to prevent Palestinian workers entering. Any migrant worker group that becomes a little articulate about their rights start receiving

harsh treatment in Israel. Ricardo, speaking of long term conflict in Columbia, noted how it had enabled drug lords to forcibly take arable land, forcing farmers to migrate for work.

The situation in Burma, described by Jackie Pollock of the Migrant Action Project, is one of long term political repression rather than conflict. Systematic human rights violations in the country have forced many people from their homes and into exploitative work in Thailand. They cannot seek help from their embassy because they are fighting the government. She pointed out how definitions such as IDP's, refugees and migrant workers creates artificial distinctions in this context because all flee the same situations. She highlighted the agency and spirit of fellow-feeling between all Burmese migrants/refugees and ended with a hopeful case of migrant workers who brought their case to the Thai labour courts and were awarded compensation.

Discussions focused on the crisis in governance and the unfortunate situation that people are pitted against their own governments. Participants agreed that a peaceful solution can only come when the rights of all people are recognized and respected.

### **Workshop On Arresting, Detaining And Deporting Migrants (14 September 2006)**

The workshop began with the moderator setting the framework for discussion and pointing out the increase in the 'detention-deportation' treatment of migrants and an unprecedented rise in prison or detention industry.

A New York based theatre group then presented an excerpt from their play *Tara's Crossing*. Based on a real life story of a person fleeing harassment in his country because of his sexual orientation, the play showed how asylum laws, racism and discrimination intersect and disadvantage the person. Discussions with the playwright and actors followed. The theatre group explained that showing this play in communities had opened up areas of silence as most people do not know about asylum laws and also choose not to recognise transgender, gay, lesbian and bi-sexual people in their own communities.

Discussants commented that States use many kinds of detention centres and although not all are prisons, they operate on similar principles: denying freedom, coercion and maintaining an atmosphere of fear and apprehension. Many prisons are not open to public. National Detention Watch is a US group that advocates on these issues. Some discussants cautioned against combining advocacy and service provision because sometimes the stakes are too high.

### **Workshop On The Trafficking And Migration Nexus, 15 September 2006**

On the last day of the Community Dialogue, GAATW held a panel discussion on the links between trafficking and migration, and how the two movements could work together. The speakers were from the GAATW delegation, along with Sapna Patel from the Urban Justice Project in New York and Saiful Haque from the Welfare Association of Repatriated Bangladeshi Employees (WARBE). Around 14 participants joined in.

On the first question, **what are the links between migration and trafficking?**, discussants responded that the links were strong in a number of ways:

1. Reasons for leaving their home countries. All speakers mentioned that migrants and trafficked persons leave for the same reasons - economic need, or the search for greater opportunities.

*All victims of trafficking [we work with] had the same ideas as other migrants - looking for economic or education opportunities or wanting to earn money for themselves or their families. Unfortunately we see that they get into trafficking because maybe they were in more desperate situations than other migrants. Many women are very young; they come from poor rural areas in Mexico and moved to Mexico City at 16-17 years old, where they are vulnerable and open to exploitation. (Sapna)*

*The driving cause is these people's need to earn a living, to eat. Many women who come to us were desperate, they had no food, they had a sick parent - and then someone came and promised a way out. So the nexus [between migration and trafficking] is very real, (Nicola)*

2. The negative impact of harsh migration laws, which force potential migrants into the hands of smugglers and sometimes severe exploitation.

*Around 2 million Burmese are working in Thailand. At some point they must use a broker -to avoid the landmines and also because legal documentation is not available for Burmese workers so they need a broker to get them through the checkpoints or the back routes. Some brokers just take the person to*

*the work place and leave them there, others are more exploitative ... Some employers are very exploitative - they hold people against their will, are physically, verbally, sexually abusive, do not pay wages. Whether it is trafficking or not, it is abusive and should not happen. (Jackie)*

Saiful explained how despite women wanting to work and there being many overseas opportunities for women domestic workers, the Government of Bangladesh banned women from leaving in the belief they should stay at home. Women migrant workers were thus forced to travel illegally and found themselves without legal protections, or married overseas husbands who then sold them into exploitation in destination countries, especially in Gulf countries. This law has recently changed.

3. The relevance of immigration status to assisting trafficked persons. Sapna explained, for example, that much of her legal work with trafficked persons was having them taken out of immigration detention and obtaining a visa for them.

On the second question of **how can migrant rights and trafficking persons rights groups work together?**, participants had a number of suggestions, including:

- Working together to promote access to justice eg. training lawyers.
- Bringing cases of abuse of migrant workers in regional/international courts.
- Helping former abused migrant workers and trafficked persons to form unions.
- Recognising returned trafficked women as returned migrants to avoid social stigma and link them with other returned migrants.
- Improving systems for identifying and assisting trafficked persons through interviewing migrants that are deported.
- Lobbying for national definitions of trafficking that cover industries other than the sex industry so that abused migrant workers have more access to redress.
- Lobbying for changes in attitudes to certain industries, such as the sex industry, which make exploitation more likely to occur and be ignored.

Participants had many questions on visa options for trafficked persons and quantifying trafficking. Bandana, moderating the discussion, summarised by noting again that the root causes of trafficking

and migration are often the same, and unless these causes are addressed trafficking is bound to escalate.

We at GAATW feel that this was the beginning of a very important conversation. Since many participants were meeting each other for the first time, and also because anti-trafficking and migrant rights activists have not collaborated much with each other, this workshop only touched upon possible areas for working together. More such discussions are needed before we can come up with joint strategies. It is now the responsibility of members and partners of GAATW to deepen this conversation and come up with concrete collaborative plans of action for future.

## *The Human Rights Council, 2<sup>nd</sup> Session*

1. Introduction
2. Background to the Human Rights Council
3. The Report of the Special Rapporteur on Trafficking
4. Other issues of interest

Issue #2 brings you news of the **Human Rights Council (HRC) 2<sup>nd</sup> Session**, which met in Geneva between **18 September and 6 October 2006**. Two staff of the GAATW International Secretariat, Eleanor and Nerea, with the Advisor for Public Affairs of La Strada International, Marieke van Doorninck, attended the first week of the session, 18- 22 September. In this week all special rapporteurs with thematic mandates presented their reports to the HRC. Of particular interest to GAATW and La Strada was the presentation by the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Ms Sigma Huda. It was also useful for La Strada and GAATW staff working on international advocacy to see the new HRC in action and to learn about how NGOs can engage with the Council.

GAATW has a long history of international advocacy and engagement with the United Nations system. The network played an instrumental role in the creation and formulation of the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime.

GAATW has also retained as a core principle, the need for an approach to trafficking that centres the human rights of trafficked persons. GAATW had carried out a multi county research in mid-90s to define the elements of trafficking and to highlight different work sites in which trafficking could occur. The research report, now considered a pioneering work in anti-trafficking literature, paved the ground for an internationally agreed upon definition of trafficking. GAATW had also prepared a lobby document, [Human Rights Standards for Trafficked Persons \(HRS\)](#), collating various human rights conventions and treaties which should be used while dealing with trafficking. The previous Special Rapporteur on Violence Against Women, Ms Radhika Coomaraswamy, had strongly endorsed the HRS in her report on trafficking.<sup>1</sup>

Nevertheless, advocacy at the HRC is new to current GAATW staff and also to most of those in attendance, because the procedures and systems for the new body were being developed day by day. It was a great learning experience and we would like to share below some of what we learned.

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<sup>1</sup> Economic and Social Council, Integration of the Human Rights of Women and the Gender Perspective: Report of the Special Rapporteur on Violence Against Women, its causes and consequences, Ms Radhika Coomaraswamy, on trafficking in women, women's migration and violence against women, submitted in February 2000, para 56. Also, see the HRS on GAATW website.

## 1. Background to the Human Rights Council

The Human Rights Council commenced in June 2006 to replace the UN Commission on Human Rights. The Commission was for 60 years the main international mechanism for promoting human rights and had overseen the creation of numerous international conventions, declarations and reporting systems that now comprise the world's current human rights framework. However, in recent years the Commission was seen as heavily politicised and powerless to take necessary action in human rights emergencies. Including governments known for serious human rights violations among its membership, and notoriously appointing Libya as the Commission President in 2003, also contributed to the Commission's "credibility deficit". In the words of the International Service for Human Rights:

*[I]ts institutional culture, which was characterised by excessive politicisation, regional alliances and block voting, and the use of procedural devices to prevent debate on proposed action against countries and on controversial issues, weakened its functioning and ability to react to important human rights situations and fulfil its mandate.<sup>2</sup>*

The new Human Rights Council was a compromise model but still has a number of improvements on the Commission:

- More direct reporting - the HRC reports directly to the General Assembly instead of to the Economic and Social Council.
- It is smaller - 47 members instead of 53.
- A better election system - HRC members are elected directly by the General Assembly, rather than by ECOSOC, and voting must now consider the human rights pledges that States make before the ballot.
- Longer and more frequent meetings - the council will meet at least three times a year for a minimum of ten weeks per year, instead of the one session convened by the Commission.
- More accountability - members that commit gross and systematic violations of human rights can now be suspended by the General Assembly
- Better monitoring - the HRC has instituted a Universal Periodic Review (the review of all States' entire human rights records), the details of which will emerge during the second session.

The HRC held its first regular session in June 2006, and two special sessions have also been held on the Israel-Lebanon crisis. In this short time it has already come under heavy criticism for politicisation and for still failing to make statements on human rights situations such as Darfur. The High Commissioner for Human Rights, Mrs Louise Arbour, read a statement from the Secretary General at the opening of the 2<sup>nd</sup> session, expressing concern about the situation in Darfur and calling on the Council not to disappoint the people of the world.

The agenda of the HRC 2<sup>nd</sup> Session was devoted to finalising the backlog of work inherited from the Commission as well as deciding on the details of future human rights mechanisms under the HRC:

- Week 1: Hearing reports of independent experts (known as Special Procedures) with thematic mandates;
- Week 2: Hearing reports of the Special Procedures with country specific mandates.
- Week 3: Determining the scope and nature of the Universal Periodic Review and discussion on the future of the Special Procedures.

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<sup>2</sup> International Service for Human Rights, *A New Chapter for Human Rights: A handbook on issues of transition from the Commission on Human Rights to the Human Rights Council*, June 2006, Geneva, p. 11

The Human Rights Council adjourned its second session on October 6 until 27 November to take action on the deferred draft proposals. It will then be followed by the opening of its third session.

Speaking at the final meeting before the adjournment Peru, Argentina, Uruguay and Brazil urged to strengthen the efforts of the Council to address the human rights violations around the world. The United States had previously expressed its disappointment at the results of the Council, stating that the body missed an opportunity to enhance dialogues among cultures.

You can find extra information in the final report of the HRC 2nd Session, which is posted at <http://www.ohchr.org/english/bodies/hrcouncil/specialsession/2/report>

The new process for presentation of reports being tested at the HRC is called the "interactive dialogue". This entails two or three Special Procedures presenting their reports, country delegates and NGOs asking questions to all three, and then the Procedures responding. This is an improvement on the previous system in which presentations were followed by country or NGO position statements without discussion. However, because of the limited time (three hours for three rapporteurs, questions and responses) the time allocated for all NGOs is now only ten minutes. This means only two NGOs could address each special rapporteur, determined on a first come first serve basis of registration.

## **2. The Report of the Special Rapporteur on the Human Rights Aspects of Trafficking in Persons**

The mandate of Special Rapporteur on Trafficking was created only in 2005 and thus Ms Huda is the first such rapporteur. The thematic report that she completed in March 2006 and that she presented to the Council in this session was her first substantial thematic report.

As many may remember, the report raised serious concerns when released. Entitled "[Integration of the Human Rights of Women and the Gender Perspective](#)", it "focused on sex-trafficking and the role of the prostitute-user in stimulating demand".<sup>3</sup> The GAATW IS in consultation with member organizations prepared a response to the report that has been endorsed by numerous partners and allies. The [GAATW response](#) addressed the special rapporteur's failure to fulfil her mandate. In GAATW's view, the report did not fulfil the three central tenets of the special rapporteur's role: it was not based on research, was not grounded in the human rights principles set out in the core conventions, and was neither objective nor impartial.<sup>4</sup> The [La Strada](#) response to the report criticised its substance, particularly the recommendation to criminalise clients of sex workers as a way to combat trafficking. Both networks felt it is important to make these concerns known at the UN level, and to encourage governments to take a critical approach to the report. Other GAATW member organizations like [Ban Ying](#) (Germany) have equally expressed their disappointment towards the Special Rapporteur's report. GAATW member organization [BlinN](#) (Bonded labour in the Netherlands) who had sent a response to the SR's questionnaire, felt that part of their response was taken out of context and quoted to make a point which they did not imply. [Urban Justice Project](#), New York, which works with sex workers to stop sex trafficking, has also sent in their concerns over the report to the office of the OHCHR.

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<sup>3</sup> Sigma Huda, Special Rapporteur on the human rights aspects of trafficking in persons, especially women and children, Address to the Human Rights Council, 2nd Session, 20 September 2006.

<sup>4</sup> The Special Rapporteur's report and the responses of various NGOs, including GAATW and La Strada, can be found on the GAATW website: [www.gaatw.net](http://www.gaatw.net).

The Special Rapporteur presented her report on the morning of Wednesday, 20 September 2006, together with the Special Rapporteur on violence against women. During her intervention the Special Rapporteur summarised her thematic report on demand, and also summarised her reports on visits to Lebanon and Bosnia. Seventeen States then made interventions addressed to Ms Huda. **Belarus, Costa Rica, Argentina, Japan, the Philippines, the Russian Federation, Bangladesh** and the **United States** were supportive of Ms Huda's work and findings. **Norway** and **Finland** on behalf of the EU, **Bulgaria** and **Romania** also expressed general appreciation for looking at the demand issue. Norway asked Ms Huda's views on bilateral and regional cooperation to address trafficking, and Finland asked for more detailed measures to combat demand.

Other countries, such as **Thailand, Indonesia** and **Brazil** took a more neutral stance and pointed to the work they were doing to combat trafficking. Three governments asked more critical questions: **Chile** and **Switzerland** requested more empirical data on the impact of criminalisation and Switzerland questioned whether it best served the interests of women. **The Netherlands** asked why Ms Huda had limited her research to sex trafficking and noted that their law legalising prostitution had improved the conditions of some women.

After the lunch break, 8 NGOs made interventions, but only three addressed the SR on trafficking:

- Franciscans International questioned Ms Huda's report on her visit to Lebanon, and asked one question on GAATW's behalf.
- A Joint Statement by the Movement for the Abolition of Pornography and Prostitution and the Coalition Against Trafficking in Women was read in support of the Special Rapporteur.
- GAATW asked the questions prepared jointly by GAATW and La Strada International (included below).

In her response, Ms. Huda reaffirmed that criminalisation of clients protects the rights of trafficked women and will make them "more empowered to take action". She did not respond to the questions on research or providing evidence, or to any of GAATW's questions. However, confusingly, she said that NGOs had argued for legalisation of prostitution (which none of the NGOs had mentioned) and said that she thought this was "not an answer to trafficking".

Overall, GAATW and La Strada felt that it was important that a voice was present in the Commission to raise concerns about the Special Rapporteur's report, especially on the simplistic, empirically unsupported solutions proposed by her and the narrow view of demand presented in the report. We maintain that the issue of demand should be discussed in all its complexity and states should not be led to believe that by criminalising prostitution they can address the demand for trafficked persons' labour or cheap labour or even exploitation within prostitution. States must be held accountable for the model of development they are adopting which is increasing the vulnerability of many women and men. In other words, the demand of working class women and men for work should be respected and adequate, realistic and long-term solutions proposed in consultation with them.

Overall, the HRC was a good opportunity to meet many groups working on human rights issues in several parts of the world.

### 3. Report of the Special Rapporteur on the Human Rights of Migrants

The Special Rapporteur on the human rights of migrants, Mr. Jorge A. Bustamante, presented his annual report on the very first day of the HRC session, 18 September. GAATW did not do any lobbying

around this mandate, but observed the presentation. Mr. Bustamante's report highlighted the low ratification of the 1990 *International Convention for the Protection of Human Rights of all Migrant Workers and their Family Members*, particularly by destination countries, and stated that this was a matter of political will, often related to the rise of xenophobia and anti-immigrant sentiment. He proposed a new international standard on providing national data about gaps in the labour force to reduce hostility to migrants. Mr. Bustamante also drew states' attention to the deaths of migrants at sea.

During the interactive dialogue, a number of states (all origin countries) reiterated the importance of the 1990 Convention including Pakistan, Peru, Mexico, Nicaragua and the Philippines. Spain and Finland on behalf of the EU spoke of migrants coming by sea: Spain requested recommendations on how to deal with this issue and Finland asked about measures to address the root causes of mass migration. Human Rights Watch, in a joint statement with Franciscans International, asked Mr. Bustamante about his mandate in regards to trafficking in persons and his views on the High Level Dialogue on Migration and Development ([see GAATW Advocacy Update #1](#)). In his response, Mr. Bustamante again stated that it was crucial for destination countries to sign and ratify the Migrant Workers Convention.

The Special Rapporteur on the human rights of migrants is a key mechanism for those interested in protecting the rights of migrant women, including those in trafficking situations. For this reason, GAATW and Franciscans International met with Mr. Bustamante on 21 September. Among other things, GAATW urged the Special Rapporteur to examine more closely the human rights violations suffered by migrant women, and to consider the links between migration and trafficking. Mr. Bustamante informed us that his next annual report would address the human rights of vulnerable groups and that he had scheduled the following country visits:

1. South Korea, 4 - 12 December 2006
2. Indonesia, 12 - 20 December 2006
3. United States, late January - early February

The Special Rapporteur urged all GAATW members and contacts working in these countries or with information on human rights violations against migrants in these countries, to contact him prior to his visit. You can visit his page on the OHCHR site to download a [Questionnaire for Allegations of Violations of Migrants' Rights](#) in 6 languages to communicate information of such violations.

#### **4. Other issues**

#### **The Future of Independent Human Rights Experts**

A burning issue in the halls of the UN building in Geneva is the future of the more than 40 independent experts known as the Special Procedures. The procedures are usually individuals (called special rapporteurs, special representatives or independent experts) and sometimes groups (referred to as working groups), who monitor and publicly report on situations of human rights violations. They cover both thematic and country-specific issues, referred to as mandates, and can play a crucial role in bringing urgent human rights cases to international attention and identifying emerging issues.

As the Special Procedures were created by the now defunct Commission on Human Rights, the General Assembly carried responsibility for them over to the Council but requested the Council to "review, and where necessary, improve and rationalise all mandates" within one year.<sup>5</sup>

Therefore, while the Council seems bound to keep some form of special procedures, the nature and power of the system are open. Certain states are calling for the system to be weakened for example by reducing the number of special procedures, abolishing country-specific mandates or limiting their roles.

The Council has created a Working Group to devise recommendations on the Special Procedures.<sup>6</sup> On 3 October aspects of the system, such as appointment and mandates were discussed by the Council members and most States were supportive of the system, but had various suggestions for improvement like reducing overlap, better geographic representation and more clarity of mandates. Until the system is finalised in the coming months, NGOs remain very nervous about criticising any particular rapporteur and will continue lobbying for the system to be retained.

### **The Space for NGOs in the new HRC**

Another concern of NGOs generally was space for them at the HRC. The President of the HRC is apparently supportive of NGOs and made a ruling that NGOs could have ten minutes as part of the three-hour interactive dialogues. The NG Liaison Service (NGLS) is also extremely open and helpful. A UN Extranet system, "a community site where updated documents, statements and schedules of the Human Rights Council are available" has been created.<sup>7</sup>

However, many NGOs were frustrated with the restricted time available during the council sessions as it was divided up among those NGOs who registered first with the NGLS. It takes time to work out this system and to find the NGLS to register, so in practice large NGOs with a presence in Geneva dominated most the questions in most sessions. Smaller NGOs, many of whom had sent representatives for only several days for particular issues, were not given space to speak. It was clear from the debates that certain governments, such as Cuba and Pakistan, are opposed to greater NGO involvement and would prefer they simply observe, particularly on country-specific mandates.

CONGO (Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations) the committee representing all NGOs held regular meetings with NGOs to hear their views, assist them and brief them about new developments at the HRC. It pointed out that this is not an ordinary session of the Council but rather the HRC is still resolving the Commission's work and designing its own systems and that thus, the new system is being developed. Nevertheless, others pointed to NGOs right according to the General Assembly to play a key role in the UN's work. This issue will likely be discussed over the coming year.

### **Overall...**

In general, we at the Secretariat and our partner in this, La Strada, felt this was a valuable entrance into advocacy through the human rights system. As the systems are being developed, it is important

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<sup>5</sup> General Assembly Resolution 60/251.

<sup>6</sup> Human Rights Council Decision 2006/104

<sup>7</sup> See [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm)

that we all keep abreast of the issues and advocate strongly for a system of special procedures that appoint experts in their fields who can use the human rights conventions to argue for the protection of the rights of trafficked women and migrant women in general. It is possible now to create a truly effective system, but much harder to change it once it is in place.

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**Statement on the 2<sup>nd</sup> annual report of the special rapporteur on the human rights aspects of victims of trafficking in persons, especially women and children, *Sigma Huda*. "integration of the human rights of women and a gender perspective."**

Oral Intervention by GAATW and La Strada to the Human Rights Council, United Nations, Geneva, September 2006.

The Global Alliance Against Traffic in Women is an alliance of over 75 organisations from six continents, most of whom provide assistance directly to trafficked women or carry out trafficking prevention as part of women's empowerment programs. GAATW is founded on a belief in a human rights approach to anti-trafficking work, which means centring the rights of trafficked persons in all anti-trafficking initiatives so that they do not adversely impact upon affected groups. One of our key partners, La Strada International, assisted with drafting this intervention.

Based on 15 years of experience in anti-trafficking, we know that trafficking occurs in all industries in which workers are vulnerable to severe exploitation - the construction, agriculture, domestic work, manufacturing and the sex industries for example. The legalisation or criminalisation of particular industries does not impact upon the incidence of trafficking. Rather, trafficking is caused by poverty, gender inequality, traditional social structures and lack of safe, legal migration possibilities in countries of origin, as well as the demand for exploitative cheap labour in destination countries. It is experienced by men, women and children.

We would like to ask the Special Rapporteur:

1. How would you assess the impact of all anti-trafficking measures on the human rights of trafficked persons and other affected communities, including the one proposed in your report?
2. Does the special rapporteur consider that the findings she has made in relation to demand for trafficked labour in the sex industry apply equally to all industries, or are there differences?
3. How does the Special Rapporteur think that the voices and experiences of affected communities can be given more weight in the international anti-trafficking debate?
4. Does the Special Rapporteur intend to broaden future research to all forms of trafficking and therefore address the human rights abuses committed against large groups of men, women and children?
5. How does the Special Rapporteur see her role in bringing together the many diverse perspectives on trafficking, its causes and solutions?

## **ISSUE #3: Conference of Parties to the UN Convention Against Transnational Organised Crime, 3<sup>rd</sup> Session**

Issue #3 shares with you GAATW's work and experiences at the 3<sup>rd</sup> session of the Conference of the Parties to the *UN Convention against Transnational Organised Crime*. The Conference was held in the Vienna International Centre between 9 and 18 October 2006 and brought together representatives from 82 States parties, 24 signatory/observer States<sup>1</sup> and five observer States<sup>2</sup>. A number of international organisations and non-government organisations also attended.

The aim of the Conference is to discuss implementation of the Convention and its Protocols, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol). The discussions on the Palermo Protocol, held between 10 and 12 October, was an excellent opportunity for GAATW to learn more about governments' anti-trafficking policies worldwide and to bring results from GAATW's consultations and meetings to their attention. GAATW made two oral interventions and held a well-attended panel discussion on the human rights approach to victim protection during the Conference. The panel discussion and the first intervention were organised with the assistance of La Strada International and Antislavery International.

### **1. Background to the Conference**

The *UN Convention against Transnational Organized Crime* and the two supplementary protocols on human smuggling and human trafficking were adopted by the United Nations at its Millennium General Assembly in November 2000. They came into force in September 2003. The Convention required that the Secretary-General convene a Conference of the States who were parties to the Convention within one year of it coming into force to:

"improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of this Convention."

The first conference was held in September 2004 in Vienna. The 2006 session was the third session, but from now on the Conference will be convened only every two years. The UN Office of Drugs and Crime (UNODC) organizes the Conference each year at its headquarters in Vienna, where the negotiation of the Convention and its Protocols took place.

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<sup>1</sup> Member States of the United Nations that have neither signed nor ratified, or who have signed but not yet ratified the Convention and supplementary Protocols.

<sup>2</sup> States that have observer status to the United Nations, including Palestine, Iraq, Mongolia, Qatar and the Holy See.

Essentially, the meeting acts as a cooperation mechanism for the combating of organised crime, including trafficking and smuggling. Governments can share information on patterns, trends and good practices, facilitate training or technical assistance and also look at funding in developing countries to tackle organized crime and root causes. The meeting also has a weak monitoring function through its mandate of "reviewing periodically the implementation of this convention" however this function relies on peer group pressure among States - there are no sanctions for non-compliance. Interestingly, governments who are not parties to the Convention and Protocols can also attend to learn more about implementation.

The agenda of the Conference in 2006 devoted a significant portion of the plenary sessions to discussing the Palermo Protocol over three days, specifically:

- Assistance to and protection of victims of trafficking (article 6)
- Status of victims in receiving States (article 7)
- Repatriation of victims of trafficking (article 8)
- Prevention (article 9)
- Information exchange and training (article 10).

Documents from the Conference, including a useful summary of all reports from governments, can be downloaded at: [http://www.unodc.org/unodc/organized\\_crime\\_untoc\\_2006.html](http://www.unodc.org/unodc/organized_crime_untoc_2006.html)

GAATW had been closely involved with the negotiation of the Palermo Protocol in 2000 as a member of the Human Rights Caucus. We had brought research findings together with the [Human Rights Standards for Trafficked Persons \(HRS\)](#) to lobby for sufficient protections of all people trafficked into all industries and this paved the way for the internationally agreed definition of trafficking in the Protocol that includes all forms of servitude and slavery like practices. However, it was also felt by GAATW members and colleagues that the human rights protections included in the Palermo Protocol were not strong enough.

This meeting, the first time that GAATW had attended, was thus an opportunity to see how State's had interpreted their obligations under the Protocol and what approach they were taking to prevention and protection of trafficked persons.

## 2. The Plenary Sessions

During the plenary sessions of the Conference, representatives of 30 States gave oral statements describing their efforts to combat trafficking.<sup>3</sup>

It was clear that all States who were parties to the Protocol (and many who were not) had done much to combat trafficking. Almost all now have anti-trafficking legislation or are in the process of drafting such legislation. Law enforcement agencies in almost all States have received training on trafficking and many governments have established coordination bodies such as interagency working groups or taskforces. Many spoke of protecting 'victims' of trafficking and of raising community awareness.

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<sup>3</sup> Statements were made by the following States parties: Argentina, Australia, Belgium, Brazil, Canada, Chile, Colombia, Croatia, Egypt, Finland (on behalf of the European Union), Germany, Laos, Mali, Malta, Mexico, Nigeria, Norway, Philippines, Romania, South Africa, United Kingdom and United States. The observer for the European Commission delivered a statement on behalf of the European Community. The following non-parties also presented: Burundi, China, Greece, Japan, Indonesia, Iran, Switzerland, Malaysia,

Some more unique initiatives came out of Belgium including taskforces of experts and law enforcement led by judges to coordinate law enforcement and services, and the creation of a set of 70 indicators for identifying trafficking. Norway also now offers a six-month reflection period with education and work rights.

At first the Conference style was formal but, on the suggestion of the Canadian delegation, more discussion and dialogue began to take place. On 12 October delegates shared policies and experiences around protection of trafficked persons. One issue that States were interested in was recovery periods for identified trafficked persons and whether reflection periods (as commonly granted in Europe) were more appropriate than the US strategy of providing an indefinite recovery time during which investigations carried on simultaneously. The discussion was dominated by several States who saw themselves as proactive and who were represented by anti-trafficking specialists, namely the United States, Germany, Canada, the Philippines, South Africa and Brazil.

What was missing was any evaluation of these efforts. It was difficult to compare the interventions as each State listed only what had been done, not the impact of these initiatives, or what had not yet been addressed. As one expert commented, to listen to the States one would think that the problem of trafficking had been solved! For example, States did not mention in their presentations that services were still only available if the person is of some use to police and prosecutors or that in many countries the emphasis is still only on trafficking for sexual exploitation.

Some threads in the discussion were also of concern. Many delegates, particularly from Western Europe and Japan continued to link trafficking to smuggling/illegal migration and describing tightening of borders (to deter illegal migrants) as an anti-trafficking activity. Alternatively, trafficking was discussed only as a form of organised crime with the numbers of traffickers prosecuted or the harshness of penalties as key indicators of success, regardless of what happens to the trafficked person. This linkage between anti-trafficking and the criminal justice system is surely a result of trafficking being dealt with through a crime control instrument, rather than through a human rights instrument. It allows States to ignore their human rights protection obligations and focus solely on the protection of witnesses.

On 11 and 12 October GAATW and several other NGOs and international organisations made interventions:<sup>4</sup>

The **International Labor Organisation** explained the rationale for its work to establish indicators for forced labour - namely to assist law enforcement and provide data and statistics.

**UNHCR** urged governments not to confuse trafficked persons with refugees.

The **National Council of German Women's Organisations** spoke of their efforts around the World Cup in Germany to raise awareness about trafficking. The representative said that the campaign had been a great success and trafficking would now be discussed at much higher levels. She said that the organisation was lobbying for changes (undefined) to laws and had collected 100,000 signatures against trafficking. Also, she urged destination governments to provide aid to origin countries so they can "provide sufficient income to women that they can stay".<sup>5</sup>

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<sup>4</sup> GAATWs interventions of both 11 and 12 October are attached at the end of this Update.

<sup>5</sup> The representative of the NCGWO did not mention that evaluations of the World Cup campaign have not found any trafficking to have actually taken place during this period. For more information and comments on the Cup campaign see our blogspot: [www.gaatw.net/blog](http://www.gaatw.net/blog)

The **Coalition Against Traffic in Women** (CATW) representative gave a long address in which she urged States to look more at demand, meaning the criminalization of the use of prostitutes, and further to take on a definition of trafficking in accordance with the 1949 Convention to Suppress All Forms of Trafficking.

The **International Alliance of Women** urged States to collect more data on 'victims' and services provided, rather than just the numbers of people charged and prosecuted.

As well as its oral interventions, GAATW also left a written statement (Common Paper) with findings from recent consultations on social assistance and access to justice, together with submissions from our members, namely FIDA Kenya and Projeto Trama of Brazil (available soon our website).

### 3. The Panel Discussion Side Event

On Wednesday 11 October, GAATW, with the assistance of Antislavery International and La Strada International, held a side-event of a panel discussion entitled: "Protection of Trafficked Persons: A Human Rights Approach". The panel was a great success - the presentations were timely and thought provoking, nearly 200 people from government delegations, NGOs and the community in Vienna attended, and a meaningful discussion was held with all present. After the dry and technical tone of the Conference sessions, an open discussion on protection and human rights seemed welcomed by all.

The panel proceedings in summary form are as follows:

**Antonio Maria Costa**, Executive Director of the UNODC, gave welcoming remarks and expressed his appreciation for the work of NGOs and his wish that those who work on the ground could critique the anti-trafficking efforts of the UN, international organisations and governments.

**Bandana Pattanaik**, International Coordinator of GAATW, moderated the discussion and introduced the panellists. She noted how at the time of the Protocol negotiations GAATW had been hoping that a human rights instrument would be developed to combat trafficking and that advocates were uncertain of the utility of a crime control instrument for this purpose. However, she said that it was possible for States to interpret the Palermo Protocol in line with human rights principles. She also mentioned concerns noted by GAATW in recent years that 'anti-trafficking' was used by States to justify other agendas such as closing borders and thus efforts to 'protect' victims could actually harm them and other groups.

**Dr Helga Konrad**, International Consultant on Anti-Trafficking and recently the Special Representative for Combating Trafficking at the Organisation for Security Cooperation in Europe (OSCE) gave the first presentation. She spoke of the results of a research study conducted by the OSCE into implementation of the Protocol in 55 countries which found that many States were not fulfilling their obligations.

**Marieke van Doorninck**, Advisor on Public Affairs at La Strada International, a European anti-trafficking network based in the Netherlands, spoke of the meaning of protection. She said that protection was not just witness protection, but all steps needed to allow a traumatised person to recover fully and go on to lead a productive life. She also spoke of the importance of access to justice and individual risk analyses for returning trafficked persons.

**Klara Skrivankova**, the Anti-trafficking officer of Antislavery International, based in London spoke of her research in the UK and the need to establish services for persons trafficked into all industries, not just into the sex industry as in the UK.

#### Discussion

Questions to the panel included on how compensation could be funded and how services should be managed. Kristina Kangaspunta from the UNODC Anti-trafficking Unit commented that victims of trafficking should be seen just like victims of any other crime. Helga Konrad and the Austrian Ambassador both urged governments and NGOs to cooperate. A representative of IMADR also suggested a shadow report process which others in the room supported.

#### 4. The Space for NGOs in the new HRC

NGOs, both those with ECOSOC consultative status and others, were welcome to attend the Conference. The Civil Affairs office of the UNODC facilitated NGO registration and involvement and were extremely helpful, including photocopying and distributing statements and providing logistical assistance to the side event. The NGO presence was not large, however, numbering around 15 and only four NGOs concerned with trafficking attended (and made the interventions above).

The meeting was held in accordance with General Assembly Rules and Rule 17 allows NGOs to make oral interventions and circulate written statements. However, NGOs could not take part in discussions in plenary and there was some confusion as to whether we could attend the smaller ad hoc working groups. In general, States seemed a little oblivious to NGO presence and were not concerned with listening to NGO views or evidence on anti-trafficking policies. It would be valuable next time for NGOs to have a more coordinated presence with more specific information on the impact of anti-trafficking policies to bring to the debates.

#### 5. An interview with LEFÖ - Beratung, Bildung und Begleitung für Migrantinnen (Counselling, Education and Support for Migrant Women)<sup>6</sup>

- a. *Colleagues from Lefoe participated in the UN conference of state parties. What were Lefoe's hopes and expectations of this 2006 Conference? Did the Conference live up to those?*

Our hopes and expectations concerning the UN conference weren't really big from the beginning. We expected information about the willingness and the steps, which have already been made by different states to implement the UN Protocol, especially in relation to the protection and the support of victims of trafficking in women. This expectation wasn't sufficiently fulfilled and the answer was disappointing as well (many nations haven't shown much willingness to indeed do anything). We also expected to meet important partners at the conference and above all at the NGOs side-events in order to have a forum for exchange, networking and lobbying. This expectation has been fulfilled. In this sense we regard our participation as having been meaningful.

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<sup>6</sup> LEFÖ is a non-government organisation in Vienna that was founded in 1985 by a group of Latin American women politically-exiled in Austria. LEFÖ now works with migrant women in general, migrant sex workers in particular, and also with trafficked women. Although not a GAATW member, GAATW has worked with LEFÖ on some activities and met again at this session of the Conference of Parties.

- b. *Was Lefoe involved in the Palermo Protocol negotiations and have you been monitoring State compliance to the protocol in Austria and/or in Europe? What positive progress do you see in States responses to human trafficking since the Protocol came into force in 2003?*

LEFÖ was involved only peripherally in the Palermo Protocol negotiations. Before 2003 we did not have any special activities for monitoring 'state compliance' with the Protocol. The Austrian Government has introduced some measures to tackle human trafficking, especially trafficking in women and children (e.g. financing LEFÖ IBF, Intervention Centre for Victims of Trafficking in Women), but it had not mentioned a direct connection to the Palermo Protocol.

In 2004 the Austrian criminal law was adapted to match the EU Guidelines on human trafficking in that the definition of human trafficking is now as broad as the definition in the UN Protocol (the EU Guidelines follow the UN Protocol). So it has had an influence, but mainly on prosecution. The Palermo Protocol was a useful tool for us to lobby for the government to start fighting trafficking in women, and for protection of victims' rights as well. Since last year victims of human trafficking in Austria have 30-day reflection period during which they can't be deported. But we see this law as more related to the Council of Europe Convention than to the Palermo Protocol.

- c. *What do you see as the biggest gaps in current State responses and what are your thoughts on moving forward?*

One measure still missing is legally guaranteed and formal protection of victims of trafficking. Victims of trafficking in Austria have several possibilities, for instance to obtain a residence permit, work and an education, but these are not legal rights. They are only granted on a case-by-case basis after (sometimes strenuous) efforts. We see the necessity for affected women to receive a residence authorisation, independently from their preparedness to cooperate with the authorities and the justice system.

Connected to this is a right to have a working permit, not to have the permit granted on a case-by-case basis. Furthermore women should be entitled to adequate social protection (financial) in case there aren't any work opportunities, and to have access to education and to free health insurance. This should be for all migrant women from the beginning on as well. Furthermore we see a need to improve the protection of personal data, especially relating to evidence in court.

Last but not least, we see the need for legal migration possibilities in various sectors. In our view, the strict migration laws of most EU countries are promoting rather than combating trafficking in women, because women depend on illegal methods to have a chance for migration.

## **5. Overall...**

The Conference was an interesting and rare opportunity to bring together anti-trafficking experts at the government level as well as representatives of both party and non-party States. It provided a broad overview of the key issues of contention for States at the global level - namely national security and combating crime - with some space for discussion of human rights. NGO attendance at this Conference is thus extremely important and given the small number of NGOs at this session, the presence of GAATW, La Strada and Antislavery had particular value. This role would be strengthened with some form of shadow report process at the national level. We look forward to further discussions with our members on raising our advocacy efforts in this area and welcome any suggestions or contributions in this area.

**GAATW INTERVENTION (1): 11 October 2006**

ITEM 3(c) – Article 6, Topic: Prevention of trafficking

Madame Chair, distinguished delegates and NGO colleagues.

Thank you for giving the Global Alliance Against Traffic in Women this opportunity to make a statement. Our organisation, founded in 1994 and with its headquarters in Bangkok, Thailand, is an international network of 80 anti-trafficking organisations that share a belief in centring the human rights of trafficked persons in all anti-trafficking work. Our partner organisations in six continents work on the ground to provide assistance to trafficked persons and undertake prevention activities. This statement was also prepared with the support of our colleagues at La Strada International and Antislavery International.

GAATW has been instrumental in bringing a human rights approach to anti-trafficking through our preparation of the international Human Rights Standards in 1999 and our central role in the development of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children which was adopted in 2000 and came into force in December 2003.

When the Protocols to the Transnational Organised Crime Convention were drafted, human trafficking was recognised as a very distinct phenomena from smuggling - human trafficking is a serious crime against the person whereas smuggling is a crime against the state. Trafficking can occur both within and across international borders and touches on a range of industries and rights including labour rights and social and economic rights. Many trafficked persons have legal travel documents or work permits. At the heart of trafficking is not illegal movement but deceit, long-term exploitation and abuse. Therefore, increased border protections to prevent illegal migration and smuggling is not an effective prevention strategy for trafficking. Prevention activities must address the root causes of trafficking -gender and economic inequality in source countries and the demand for cheap and exploitable labour in countries of destination. To this end, it is our hope that all governments will buttress their anti-trafficking efforts by signing and ratifying the 1990 Convention on the Rights of Migrant Workers and Members of their Families.

Second, since the adoption of the Palermo Protocol in 2000 and entry into force in December 2003, the internationally agreed definition of trafficking in persons has provided a useful tool for partner NGOs in drawing attention to the varied purposes and outcomes of the crime of human trafficking. However, we have noted from the analytical reports put out by the conference secretariat that many states are still only addressing human trafficking for sexual exploitation and have not yet given adequate attention to the problem of trafficking for forced labour and labour exploitation in a range of economic sectors.

We propose to this Conference of Parties that in order to make a real impact on this growing problem of human rights abuse, law enforcement agents and court actors must be provided with comprehensive training to understand the parameters of modern forced labour as an outcome of trafficking in persons. Acknowledgement of the spectrum of forms and mechanisms of forced labour will enable parties to the Palermo Protocol to outline a range of legal actions that can be taken to combat and prevent trafficking in persons. We urge the parties to pay more consideration to criminalising forced labour and to give the message to abusive employers that they will not only be prosecuted but that

their assets will be confiscated and exploited persons will receive restitution for the harms they have suffered.

It is our hope that countries of origin and destination, as well as of transit, will work together to fight trafficking and the forced labour outcomes of migration. Indeed participation in international cooperation to fight these crimes is essential.

Thank you for your attention.

## **GAATW INTERVENTION (2): 12 October 2006**

Topic: Agenda Item 3(a)

Thank you for giving the *Global Alliance Against Traffic in Women (GAATW)* a second opportunity to make a statement, this time on protection and assistance to victims of human trafficking.

As we mentioned yesterday, *GAATW* is a membership alliance of 80 autonomous organizations in six continents, who have considerable experience in providing assistance and services to trafficked persons. All of our members share a belief in centring the human rights of trafficked persons in all of their work.

Firstly, we would like comment on some of the interventions by States this morning and respond particularly to the intervention from the delegate of Belgium raising the issue of de-linking assistance from cooperation in criminal proceedings. We note the important work by States in providing reflection periods for trafficked persons to decide whether to testify in a criminal case. But we note from our discussions with NGO partners that this only assists victims who investigators consider to be useful. Even if a victim wishes to cooperate, if she or he does not have information that investigators find useful, for example because she does not know relevant details, there are other witnesses, or the case is not a priority - she will still not receive assistance. So trafficked persons who may also have suffered greatly are often being deported or repatriated before they have any chance to recover. We urge governments not to link services to the criminal justice system - to recognise that all persons who have suffered a human rights violation have the right to a remedy.

Second, yesterday *GAATW* held a very thought-provoking panel discussion on protection of trafficked persons and we would like to share some insights from the meeting. The distinguished Executive Director of UNODC welcomed the discussants who included Dr Helga Konrad, an international consultant on anti-trafficking and recently of the OSCE, a representative of Anti-Slavery International, an international organization based in London, and La Strada International, a European anti-trafficking network based in the Netherlands.

All discussants stated that although governments have taken many steps to combat trafficking and we commend states for their commitment to this issue, in practice, trafficked persons are still not receiving adequate protection in most countries. Some of the reasons that discussants presented for this included:

- Services are designed only for victims of trafficking into sexual exploitation and are not available to those trafficked into other industries such as agriculture, domestic work or manufacturing.

- Identification of trafficked persons needs to be taken much more seriously - current methods are only scratching the surface of the problem.
- Services are still island services, and more integrated service delivery needs to be offered. In particular, States should work more cooperatively with NGOs. NGOs often can provide services more cheaply and more effectively than States. We note the successful model of cooperation agreements in some local areas such as Berlin.
- States are using the anti-trafficking framework to satisfy other purposes, for example an anti-immigration agenda or a national security agenda. Exploitation, not illegal migration, is at the core of trafficking.
- Services should not be provided on a discriminatory basis but to all peoples who suffer a human rights violation. We are concerned about use of terms such as 'genuine victims' or 'victims with high moral standards' used by some States to discriminate against victims who may have, for example, previously worked in the sex industry.
- Finally, States must take up the issue of internal trafficking seriously.

The panel emphasised that a human rights approach must be based on the protection of all of the rights of all people. Protection is not just witness protection, it is all services that enable a person who has been abused to recover and go on to lead a productive life.

The following recommendations were put forward at this meeting:

- The establishment of a shadow reporting process
- That victims should be considered like a victim of any serious crime and should be provided with comprehensive services and access to compensation
- All trafficked persons should be provided with a temporary visa in destination countries, of a certain duration.
- All States, and especially countries of destination, must as a matter of priority, sign and ratify the Convention on the Rights of all Migrant Workers and Members of their Families as labour migration is at the core of the trafficking process.

Finally, we thank UNODC, particularly the Civil Affairs Officer, for their excellent support in holding this useful discussion, and thank you for your time.