



# RIGHTS in Practice

**A report on National Human Rights  
Institution's (NHRIs) work to evaluate and  
monitor state anti-trafficking responses in the  
Association of South-East Asian Nations  
(ASEAN) area**

**This brochure summarizes 'Rights in Practice' a report  
by the Global Alliance against Traffic in Women  
and the Buhay Foundation for Women and the Girl Child**

## Executive Summary and Recommendations

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Since the development of the Protocol to Protect, Suppress and Punish Traffic in Persons (Human Trafficking Protocol) ten years ago, there has been a global effort to combat trafficking in persons: 132 States are now Parties to the Protocol and many have implemented specific anti-trafficking legislation. However as highlighted by the Office of the High Commissioner for Human Rights (OHCHR), it has become increasingly clear that present efforts to prevent trafficking are not succeeding. Moreover, as the OHCHR notes, some anti-trafficking responses: 'have even been harmful to the very people they aimed to protect, as victims of trafficking at times become "collateral damage" in law enforcement operations'<sup>1</sup>. Instead of facing up to their human rights obligations many States remain complicit in the exploitation of those migrating for work.

The Global Alliance against Traffic in Women (GAATW)<sup>2</sup> believes that National Human Rights Institutions (NHRIs) along with other key national actors are in a position to reduce the negative impact of anti-trafficking responses and, furthermore to promote and protect migrant rights. In 2007 the four Association of Southeast Asian Nations (ASEAN) NHRIs of Thailand, Indonesia, Malaysia and the Philippines entered into a Declaration of Cooperation on five areas of shared concern, including 'people trafficking' and the 'protection of the human rights of migrants and migrant workers'. This Declaration signified a commendable and progressive step forward.

GAATW focuses this report on the work of these NHRIs<sup>3</sup>: we consider their research and analysis of anti-trafficking responses and examine the role they play in upholding the rights of trafficked persons and migrants. Throughout this report we note the huge benefit derived from their continued commitment in this area, yet also the areas for improvement if migrant rights are to be protected, respected and fulfilled, as they must in the region. We have identified common trends in these NHRIs' approaches to human trafficking and migration and on the basis of these and the guiding *Principles relating to the status and functioning of national institutions for protection and promotion of human rights* (the Paris Principles) we make the following recommendations to the NHRIs of Thailand, Indonesia and Malaysia,

*To the Khana Khammakarn Sithi Manusayachon Hang Chat; Komisi Nasional Hak Asasi Manusia (Komnas HAM) and Komisi Nasional Anti Kekerasan Terhadap Perempuan (Komnas Perempuan); and Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM):*

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1 UNHCHR, 6 February 2009, A/HRC/10/64, Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary General, p. 21, United Nations, Geneva, Switzerland.

2 The Global Alliance against Traffic in Women (GAATW) is a network of over 100 member organisations working on migrant rights, anti-trafficking and women's rights issues around the world

3 Research in the Philippines is ongoing. Once this is completed and collated the section on the CHRP will be published as an addendum to the full report

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## **Institutional competencies**

As States increasingly adopt narrow interpretations of human trafficking, the burden falls to NHRIs, NGOs and others to highlight the complexity of this issue and its inter-linkages with migration and labour exploitation.

1. *Ensure that at least one Commissioner per NHRI possesses a high level of competence and expertise in the areas of migration and labour exploitation and that they have adequate human and financial resources to conduct their work to the highest standards;*
2. *Mainstream these competencies throughout the NHRI in order to ensure institutional clarity on the linkages between the human rights of migrant workers and anti-trafficking initiatives.*

## **Formalisation of procedures and relationships**

In each country studied national anti-trafficking policies and practice are in progress and NHRIs have been involved in such developments to varying degrees of success:

3. *Enter into partnerships with key actors working in the fields of human trafficking, migration and labour to jointly address State anti-trafficking responses and ensure adequate human rights protections are offered to migrants.*
4. *Establish, in collaboration with CSOs, mechanisms to: research and analyse States' anti-trafficking responses both in policy and practice; draft legislation and legislative amendments; monitor and make recommendations on existing legislation; advocate for international legal ratifications and monitor compliance with existing international obligations; and to promote pluralism, facilitating dialogue and channelling feedback on anti-trafficking responses.*

## **Direct engagement in human rights promotion**

NHRIs work to promote migrant rights includes: trainings for law enforcement and other public officials; education about opportunities for safe migration; their presence at law enforcement raids or at government detention facilities; and direct advocacy in specific cases:

5. *Request a formal role in law enforcement operations and official training programmes in order to ensure that migrant rights are mainstreamed throughout all anti-trafficking responses.*
6. *Ensure that protection measures offered by the State to trafficked persons and migrants are monitored for their adherence to human rights standards, particularly by conducting regular visits to shelters or detention establishments and through training programmes for staff.*
7. *Continue to engage directly in cases regarding the exploitation of migrants ensuring that due process is followed in judicial procedures and access to justice for trafficked persons is guaranteed.*

## **Advisory role**

The backbone of NHRIs' work is their statements of opinion, recommendations and reports published which draw on their expertise in human rights and migrant rights:

8. *On the basis of sound evidence and expertise, continue and enhance advisory work, highlighting the State's obligations and duties to uphold the human rights of migrants and trafficked persons. Conduct associated advocacy in order to ensure uptake of recommendations.*
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