

Prevention of Trafficking: A Consultation with the Special Rapporteur on Trafficking, Especially Women and Children



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Organised by the Global Alliance Against Traffic in Women and the Foundation For Women in cooperation with the UN Office for the High Commissioner for Human Rights South East Asia Regional Office (OHCHR)

Introduction

On the afternoon of the 18 January 2010, the Global Alliance Against Traffic in Women International Secretariat (GAATW-IS) and the Foundation For Women, in cooperation with the United Nations Office for the High Commissioner for Human Rights South East Asia Regional Office (UNOHCHR), held a consultation with the Special Rapporteur on trafficking, especially women and children, Ms Joy Ezeilo, on *Prevention of Trafficking*, held in Bangkok, Thailand. The Consultation brought together representatives of GAATW-IS and Member Organisations, Foundation For Women and Women's Rights and Development Centre (WORD), as well as representatives from four other Thai-based non-governmental organisations (NGOs) who work directly with and/or advocate for migrants' rights and the rights of trafficked people: Human Rights and Development Foundation, Fight for Life; Save the Children UK; and the Mekong Migration Network, with 33 participants in total.

The Consultation was an opportunity for the Special Rapporteur to highlight the role of civil society in her work and for participants to raise issues and provide the Special Rapporteur with information for her thematic report to the UN General Assembly on *Prevention*, in October 2010.

This report documents the Consultation and makes recommendations to States which we urge the Special Rapporteur to include in her thematic report.

The Consultation in Brief

The Special Rapporteur identified the role of civil society in her work and stated: “**Civil society plays a varied and highly important role in working to prevent trafficking in persons** ...without civil society not much is realisedthey’re the one who make it happen”.

Participants reported that use of the term ‘rehabilitation’ in anti-trafficking strategies and programmes contributes to the stigma experienced by many trafficked women, as ‘rehabilitation’ implies that the women are ‘impaired’. **Replacing ‘rehabilitation’ with ‘redress, recovery and reintegration’** was recommended. The benefits and challenges of **safe migration** programmes as prevention strategies were discussed.

The need for more prevention initiatives to **address the root causes of trafficking** was identified; the value of big budget prevention campaigns which raise awareness of trafficking related issues, but do little to address root causes was questioned. Campaigns which try to prevent trafficking by frightening potential migrants about the risks associated with moving were reported as ineffective. Instead, campaigns and strategies that enable the **dissemination of more realistic information** about migration and trafficking in a way that is widely available and accessible was recommended. Confusion about what is being prevented: prevention of exploitation or prevention of movement was noted as a common barrier to the implementation of successful prevention strategies. The focus of prevention campaigns must be to **stop trafficking, not migration**, it was agreed.

That the burden of prevention is generally placed on countries of origin was raised; **destination countries** also have an **important role** in prevention efforts, it was stressed. Accurately identifying those without documents was identified as being critical in the prevention of trafficking, requiring the cooperation between both countries of origin and destination. Migrants deported back to their country of origin, without documents, are at an increased risk of being trafficked. **Civil society-government cooperation** on trafficking strategies was raised as an on-going challenge, both due to a lack of mechanisms in place to facilitate such interactions but also political constraints on civil society activities.

The need for **holistic anti-trafficking responses** and solutions for identified trafficked women and children was stressed.

Reports of the Thai government **violating their Anti-Trafficking in Persons Act** by arresting and deporting Cambodian beggars, said to be trafficked, without adequate screening measures were made.

For prevention strategies to be effective, a **review of the implementation of anti-trafficking** and related laws (in particular prostitution laws) was identified as critical. Governments, as well as regional and international bodies, must have processes in place to **evaluate the effectiveness** of their respective **laws**. Prevention strategies must also include addressing potential risks of rise in human trafficking incidences as a result of regional economic development projects that do not sufficiently cover social protection issues.

The Consultation

This section documents the discussions between the Special Rapporteur and NGOs: GAATW IS, Foundation For Women, WORD, Human Rights and Development Foundation, Fight for Life, Save the Children UK, and the Mekong Migration Network on issues relating to preventing trafficking. Discussions have been documented thematically and therefore do not represent a chronological account of the Consultation.

The Special Rapporteur on the Role of Civil Society

The Special Rapporteur stated: *“civil society plays a varied and highly important role in working to prevent trafficking in persons....Without civil society not much is realised. I tell my students, civil society are the ones pushing the government, they’re the ones who make it happen.”*

She identified the provision of information on issues relating to trafficking as an important function of civil society, in advance of annual reports, during fact finding missions or while on official country visits. Following up, and holding governments accountable to conclusions and recommendations made by the Special Rapporteur in annual reports and country visit reports were also identified as a critical role of civil society.

Sharing examples of best practices or successful pilot projects is another key role for civil society identified by the Special Rapporteur.

She also stated that civil society is in a strong position to look critically at national action plans, and to work to implement the Human Trafficking Protocol at the national level, she said: *“the provision of assistance, such as shelter facilities as well as medical care, is an important function of civil society. Many trafficking survivors feel more comfortable seeking assistance and providing information to civil society rather than government agencies; making civil society a critically important source of information.”*

Replace ‘Rehabilitation’ with ‘Redress, Recovery and Reintegration’

The use of the term ‘rehabilitation’ in anti-trafficking discourse and practice was questioned by Siriporn Skrobanek (Foundation For Women), arguing that the term is perogative. She noted that the Committee on the Convention on the Rights of the Child wants to stop using this term. She invited comment and debate from the floor.

Khun Nee from Live Our Lives (a group of trafficked returnees) stated:

“Rehabilitation, compared to recovery are two words that have different meanings for trafficked persons. For a person who has been trafficked and traumatised, the person needs a recovery process that includes physical and psychological attention. This includes access to legal justice. Women who have been trafficked and return to communities are often stigmatised by communities because of their identification as trafficked and as ‘rehabilitated’.”

Siriporn added:

“We try to avoid the term rehabilitation, it’s a value added term, and traditionally one of judgment. Historically, we’ve had rehabilitation centres for ‘impaired people’ (physical usually) and rehabilitation for women in prostitution the ‘morally impaired’. 50 years ago, no one would protest but right now women in prostitution are demanding their rights and fighting against the use of this term. Redress, recovery and reintegration should be utilised rather than rehabilitation.”

The Special Rapporteur stated that: *“if there is negative association with the term rehabilitation, I would not want to further stigmatise trafficked persons”*.

Safe Migration: A Prevention Strategy

Nkirote Laiboni (GAATW IS) asked the Special Rapporteur about her thoughts on linking prevention to safe migration.

The Special Rapporteur responded:

“When you want to prevent trafficking, you have to create opportunities for safe migration. Such strategies mean that there are fewer opportunities for traffickers and brokers. It is also important to create legitimate opportunities for young people to move, i.e. through school exchange programmes so that offers made by brokers are not the only option available to them.”

She continued:

“There was a recently situation in Calais, France, where French officials shut down a camp on the northern French coast where undocumented migrants have gathered for years in the hope of making the journey across the English Channel. This is really bad practice, which puts the migrants at risk of trafficking. There must be opportunities for safe migration.”

(For more commentary on this issue see article by Caroline Hames (GAATW IS), “Trafficking isn’t just about prostitution” go to:

<http://www.guardian.co.uk/commentisfree/2009/oct/21/trafficking-prostitution-migrants-labour>)

Siriporn Skrobaneek (Foundation For Women) raised the questions:

“At what age should children be able to migrate alone? And, how do you promote the safe migration of children?”

According to the Child Rights Convention children cannot migrate alone. She argued that arresting and deporting a child found begging in street is not in their interest and that regardless of this fact, they are often returned to their country of origin. Siriporn requested that the Special Rapporteur raise these questions and issues at the next Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT) meeting (to take place the following day, 19 January 2010).

Edel Silan (Save the Children UK) shared a Save the Children safe migration programme, carried out in China, in partnership with civil society, government and local authorities.

“The programme educates the youth on the meaning of safe migration and how, if they do want to move, to do so safely. The importance of finishing the compulsory level of education was stressed. The programme connected families with local authorities who requires that the recruiters register themselves and their work to determine if the recruiters were legitimate and their work was valid. We found however, that while the young people in the programme may leave safely, when they arrive, workers may be moved to another employer, who is not recorded with the local authority and whose employment terms have not been looked at by the local authorities in the villages. .

In response, young migrant workers' support centers and groups were set up in the most popular destination city of the young migrants. The centers are places where migrants could come together to gather and share information, and where employers and employees could liaise. However, recently, the migration plans of other young people changed from going to main cities to going to isolated border towns where casinos and related tourism industries are being developed. This poses a challenge to support groups in the origin villages as they have no access to these new destinations and there are no support structures in these areas."

Prevention Initiatives that Address the Root Causes of Trafficking

The value of big budget prevention campaigns which raise awareness of trafficking related issues, but do little to address root causes was questioned. Fleur Dewar (GAATW IS) highlighted the UN Office on Drugs and Crime Blue Heart campaign and the MTV EXIT campaign as two such examples, advocating for prevention campaigns which address root causes and ensure that money is well spent.

Fleur also raised the issue of ineffective national prevention campaigns and used an example from Malaysia to illustrate her point. Malaysia had an anti-trafficking campaign that warned people migrating that they were at risk of trafficking, but did not offer any safe migration strategies, rather relying on scare tactics to prevent people from moving. Furthermore, for some time they were only produced in English, rendering them useless to many Malaysians at risk of trafficking and a gross misuse of resources.

The Special Rapporteur stated: *"while extensive work on the issue has been undertaken, trafficking is not declining, this is because insufficient attention is being given to the root causes of trafficking. Anti-trafficking initiatives must address root causes. Furthermore, governments must evaluate their anti-trafficking prevention initiatives."*

Xenia Commandeur (GAATW-IS) asked:

"What are your thoughts regarding demand reduction? And do you have any preliminary recommendations for your upcoming Prevention report, particularly with regard to who and what the key roles of actors would be."

The Special Rapporteur stated: *"reducing the demand of sex tourism and cheap labour, is a key strategy in addressing trafficking, as is tackling social issues such as unemployment and gender discrimination"*.

The Special Rapporteur noted that she is still gathering information on issues around, and solutions to, demand, but acknowledged that the private sector would be a key actor to engage.

Move from Scare Tactics to Accessible and Realistic Information

Bandana Pattanaik (GAATW-IS) stated that there is no more need for scare tactics or sensationalistic messages in prevention campaigns. Instead what is needed are campaigns and strategies that enable the dissemination of more realistic information about migration and trafficking in a way that is widely available and accessible. Bandana stated that *frightening potential migrating people about trafficking has been found to be ineffective, people still migrate, and often go through dangerous means to do so.*

The Special Rapporteur stated: *"in Japan, just outside of Tokyo, there are many organisations working hard to make information accessible, there are organisations working with Thai women in their own language and those working with Filipino women in their local languages for*

example, however these organisations are not getting any support from governments....Furthermore, the burden of responsibility to prevent trafficking is widely placed on sending countries of origin, but prevention will not be successful unless destination countries also help. Cooperation is crucial."

Destination Countries to also Take Responsibility in Prevention Efforts

Bandana Pattanaik (GAATW-IS) noted that the burden of prevention is generally placed on countries of origin; the emphasis being on preventing people from leaving their country of origin. She stated: *"we are struggling with this attitude, to shift the discourse and to emphasise that destination countries have a responsibility to prevent trafficking, because prevention does not just take place before movement, but also in the workplace."*

Edel Silan (Save the Children Fund UK) agreed, *"many young people actually reach transit and destination areas safely, but become trafficked in destination areas where they are placed in vulnerable situations due to their lack of knowledge of language, absence of normal social support systems that are present in their own hometowns, and their lack of legal status. Traffickers use the migrants' illegal status in the destination area to oppress and exploit workers and keep them from reporting to authorities"*.

She continued: *"It is also important for local people to protect themselves against exploitative labour; if there is not protection for locals, it will not be there for migrants. Good preventative work means protection for locals and migrants."*

Usa Lerdsrisuntad (Foundation For Women) further supported the importance of destination countries in prevention work. She stated: *"the most vulnerable group are migrants with no documents, not only those who have been trafficked but undocumented women and children who are deported back to their country of origin, because of their undocumented status. Because they are not officially recognised by immigration officials, they end up being handed over to agencies or recruiters who engage them in forced labour."*

Accordingly, she emphasised the importance of seeing that those without documents are accurately identified and the need for cooperation between countries of origin and destination to achieve this. Without documents it is impossible to get redress. She noted that many undocumented women in detention centres are treated as criminals and that many countries do not have a process for identifying women in detention centers. She stated: *"identifying undocumented women and children is important prevention work because once they are thrown back to their origin, without documents they are particularly vulnerable to being trafficked again."*

Edel agreed that prevention is not just about avoiding first incidences of trafficking. Many people have been trafficked, only to return home and be re-trafficked. She stated: *"preventing repeated trafficking cases is crucial; when victims return home, the same root causes, the same push and pull factors that caused trafficking to occur in the first place remain."*

The Special Rapporteur stated: *"at times, governments don't want to identify undocumented people, they don't want the responsibility It's really a difficult situation and important to create awareness around this."*

Siriporn Skrobanek (Foundation For Women) advised that currently Poland is a popular destination country for migrant men and women, however, returnees are advising against migration to Poland, after experiencing a lower quality of life than in Thailand. Many cases have been reported of people paying 250,000 baht for what turns out to be a fake visa and no work,

as had been promised. This trafficking operation is organised by a former immigration officer who is married to a Thai woman who recruits men and women to work in Poland.

Stop trafficking, not migration

There is often confusion about what is being prevented: prevention of exploitation or prevention of movement, noted Bandana Pattanaik (GAATW IS). Edel Silan (Save the Children UK) commented that it is impossible to talk about trafficking without talking about migration, but warns that messaging needs to be clear: the aim is to stop trafficking, not migration.

Rebecca Napier-Moore (GAATW IS) asked, *“how do you encourage states to do prevention work but not prevent the movement of women?”*, drawing on the Women’s League of Burma Convention on the Elimination of Discrimination against Women shadow report, which criticises the junta’s anti-trafficking work, especially in Eastern Shan states (those that border Thailand), which make it illegal for young women between the ages of 16 and 25 to leave Burma.

The Special Rapporteur stated: *“we can’t violate human rights under anti-trafficking, prevention measures cannot discriminate.”*

Siriporn Skrobaneek (Foundation For Women) noted that this was Thai policy 10 years ago but changed because of civil society protest, *“but in Burma, where civil society is restricted, where can change come from?”* she asked.

It is imperative that government’s respect the right of women to travel stated Khun Nee (Live Our Lives). She revealed that in Thailand, the government delays issuing passports to recently trafficked persons by three months. She advocated for women returnees to be provided with resources enabling them to provide protection and assistance measures to trafficked women.

Violating Anti-Trafficking Laws

Laddawan Tamafu from the Mekong Migration Network brought to the group’s attention, the arresting of 557 illegally immigrated Cambodian beggars by Thai officials on 11 January 2010. A group of 220 men and 337 women, many elderly or severely disabled, were deported as illegal migrants and dumped rather unceremoniously at the border the next day, since when no one has been able to gather information on their whereabouts or the processes that followed.

Laddawan reported that the Deputy Prime Minister Major General Sanan Kajornprasart, chairman of illegal immigrant committee, had said that the arrest was part of a government policy focused on anti-trafficking. The action troubled Mekong Migration Network and others, contending that the Cambodian beggars were deported in violation of Thailand’s own Anti-trafficking in Persons Act, without the screening to identify trafficking victims or individuals entitled to protection.

Mekong Migration Network presented the Special Rapporteur with an open letter to the Thai and Cambodian governments, along with an in-depth study on arrest, detention and deportation in the Greater Mekong Subregion.

The Special Rapporteur stated that: *“I can follow up with the government on what has happened and why it has happened. It is important to note that when people are quickly deported, there is no time for the proper process which enables the identification of victims and those in need of protection to be carried out...this is the kind of information that should be officially documented and go into a country report.”*

A Victim-Centred Approach to Return and Reintegration Strategies

“Anti-trafficking responses and solutions for identified trafficked women and children need to be holistic” stated Edel Silan (Save the Children UK). For the successful return and reintegration of trafficking survivors as well as the prevention of subsequent trafficking, repatriation systems must offer multiple solutions and be tailor-made to the individual.

Edel stated: *“there is a tendency to apply one framework , usually either a criminal justice or a child rights framework. In reality however, in isolation, such frameworks might not offer the most fitting solution. We need to see the interlink between the various frameworks on analysing and responding to human trafficking. This must be communicated to service providers.”*

Children for example, separated from their parents, face specific issues and challenges in transit and destination countries that differ from adults, the return and reintegration strategies need to take this into account. Returning undocumented children to families can be very difficult, as can identifying a child’s country of origin. Part of this difficulty is associated with increased movement in the Greater Mekong Subregion..

“We’ve found children whose families and countries of origin we couldn’t trace. Children with no nationality is a big issue for us”, she stated.

Edel stressed that any repatriation strategy must put the interest of the child first, taking into consideration factors such as the whereabouts of the family and the child protection systems and services in country of repatriation. We also have to consider that we need speedier repatriation for mothers with young children in places of origin.

“It is great that in Thailand, the anti-trafficking policy resonates with the child protection policy. But children and adults, children and women, have different situations. There is a risk that the children and women are treated in the same manner and things that are good enough for children might not necessarily be good enough for women. There are mothers who have young children back home staying in shelters for 2-3 years while waiting for the process of prosecution of the traffickers. While it is good that the criminal justice aspect of trafficking is addressed, the situation might not always be best for the women who during the time of waiting could not earn and could not communicate and take care of their growing children who are left behind with relatives or friends. Accessing justice in this way comes at a high cost to the woman. In addition, we also have to remember that many women do not want to be labeled as ‘trafficked’ women, both because they do not want to stay under protection for a period of time without the right to mobility and without opportunities to earn money for their families.”

The Special Rapporteur stated: *“anti-trafficking responses, including prevention strategies, must be tailor-made rather than one-size-fits-all.”*

Government and civil society cooperation

Civil society-government cooperation on trafficking strategies was raised as an on-going challenge, both due to a lack of mechanisms in place to facilitate such interactions but also political constraints on civil society activities.

Edel Silan (Save the Children UK) stated: *“In anti-trafficking conferences, we are always reminded that we are not government, we speak the last and we have to be careful with what we say because it might have impact on our programme. It is not easy to share our lessons with government. Thus, the presence of the Special Rapporteur to facilitate the links between civil society and the government is very important.”*

The Special Rapporteur commented that during official country visits, she always asks if they have a comprehensive law on Violence Against Women and makes the links between gender discrimination and trafficking clear.

Siriporn Skrobanek (Foundation For Women) stated that states must be accountable on cooperating with civil society. She noted that in the Greater Mekong Subregion, the space for civil society to engage is very limited: *“there have been huge investments into the COMMIT programme, but these organisations are mostly NATO (no action, talk only). They are able to talk, discuss, analyse the issues, but they are not doing the dirty work. Civil Society is still shouldering that type of work, and accordingly should be given voice in such regional coordination programmes.”*

The Special Rapporteur stated: *“governments need to recognise the work of civil society; it’s important to give space for civil society to do their work.”*

Review the Implementation of Anti-Trafficking Laws

Edel Silan (Save the Children UK) recommended that a review of the implementation of anti-trafficking laws should be a feature of her upcoming report on prevention. She stated: *“if you visit a government officer, they will often present you with an anti-trafficking law, but on closer inspection many articles in the law cannot be implemented. In Thailand, there is a really good policy which enables victims of trafficking to work during the protection process, but for the last two or three years that it has been in place, it has not been implemented. There are still situations where victims are instead arrested as illegal migrants. It is imperative that the governments have processes in place to evaluate the effectiveness and enforceability of the laws.”*

The Special Rapporteur stated: *“we need to go beyond the law to where realities are and evaluate the effectiveness of the laws and how they are being implemented on the ground”.*

Siriporn Skrobanek (Foundation For Women) added that in terms of prevention, it is also important to look into prostitution laws: *“the stigma associated with trafficked women comes from prostitution laws. In Cambodia, working with trafficked returnees, this stigma has a massive impact on the ability of returnees to build a new life. Cambodia’s anti-trafficking law is about prostitution.”*

“Criminalisation is not the answer”, stated the Special Rapporteur, *“the conflation of sex work and trafficking continues to exist and continues to cause problems.”*

Conclusion and Recommendations

Governments and civil society continue to expend huge amounts of effort on effectively preventing trafficking in persons as the key to definitively combating the crime. However, conclusions from this Consultation indicate, that in many instances, prevention strategies are ineffective, and sometimes inadvertently cause harm to those whom they are trying to protect. As a consequence, prevention policies and programmes need to be evaluated and rethought accordingly.

This Consultation highlighted the central importance of consultation with trafficked persons, their service providers and advocates on trafficking prevention strategies and other anti-trafficking responses. Such 'victim-centred' approaches will not only improve prevention policies and programmes but also ensure effective monitoring and evaluation of national, as well as international, anti-trafficking strategies.

The development and implementation of prevention strategies which address the root causes of trafficking, promote safe migration strategies and protect migrant labour rights were identified as critical to the prevention of trafficking in persons.

GAATW IS, Foundation For Women, WORD, Human Rights and Development Foundation, Fight for Life; Save the Children UK and the Mekong Migration Network urge the Special Rapporteur to put the following recommendations to States in her thematic report, States must:

Adopt collaborative approaches:

- Collaborate with trafficked persons, their service providers and advocates on prevention policies, strategies and programmes, as well as other anti-trafficking responses, understanding that they have valuable knowledge about trafficking, which is critical to preventing further instances of trafficking;
- Replace the term 'rehabilitation' with the terms 'redress, recovery and reintegration' in anti-trafficking policies, programmes and strategies, recognising that 'rehabilitation', when used in the context of trafficked persons, can increase the stigma they experience;
- Take immediate steps to consult with trafficked persons, their service providers and advocates, on appropriate 'redress, recovery and reintegration' strategies, recognising that efforts to help trafficked persons, such as 'rehabilitation' programmes, which do not consult with trafficked persons, can have negative impacts on trafficked persons, which sometimes lead them to being re-trafficked.

Monitor and Evaluate Impact of anti-trafficking work:

- Implement monitoring mechanisms to evaluate the effectiveness of national and sub-national anti-trafficking (and related) policies, programmes and strategies, in which trafficked persons, their service providers and advocates must be integral;
- Support a victim-centered monitoring mechanism to the UN Convention on Transnational Crime and its protocols there to (UNTOC), to measure the effectiveness of UNTOC, its objectives and state compliance.

Address the root causes of trafficking

- Take urgent action to develop policies and create programmes and strategies, which address the root causes of trafficking, such as: restrictive immigration and emigration policies and controls; gender inequalities; limited or lack of education; limited or lack of

livelihood or employment opportunities; unmonitored and unregulated places of work; demand by employers and consumers for cheap services and goods as well the environment that creates or influences the demand; structural inequalities brought about by increasingly globalised markets and trade liberalisation strategies which benefit some countries at the expense of others.

Promote safe migration

- Prevention campaigns must disseminate accurate and realistic information about migration and trafficking in a way that is widely available and accessible rather than using scare tactics to prevent migration;
- Develop and implement preparatory education for potential migrants;
- Develop multi-country, multi-disciplinary collaborations to improve safety and conditions for migrant workers;
- Work to eliminate all forms of discrimination of women in migration measures;
- Create more opportunities for legal migration;
- Avoid protectionism of women in anti-trafficking and migration policy design and implementation.

Enhance labour rights

- Focus on all labour sectors, formal and informal, where abuse of migrant workers can occur including domestic work, construction work and agriculture;
- Improve workplace protections, for locals and migrants;
- Base migration policies on a sound assessment of the demand for labour, including foreign workers, in different industries. without such assessments, policies can create the preconditions for labour trafficking;
- Respect the labour rights of undocumented migrant workers, regardless of their migration status.