



Access to Justice for Trafficked People

Centering Rights



Global Alliance Against Traffic in Women
April 12, 2007

AtJ E-Bulletin-Issue 1

Dear partners and friends,

Welcome to the first GAATW Access to Justice Electronic-Bulletin!

This issue marks the beginning of a new communication tool that we hope will respond to some of the key recommendations made to the Access to Justice Programme in 2006: the need for all of those directly involved in providing legal assistance to trafficked people to have a simple mechanism to receive, share and analyze updated and relevant information on initiatives within this specific area.

Improving the knowledge on world-wide initiatives on access to justice, finding out about good (or bad) practices that can be replicated or avoided, strengthening linkages between like-minded NGOs providing legal assistance, lawyers and a broader community of practitioners in different countries are some of the issues that the monthly access to justice e-bulletin will address.

In the following pages you will see that we have deliberately kept a simple structure in which the emphasis is on providing information to legal practitioners. We hope that the structure of the bulletin will develop and adjust as you, the receiver, provide us with your feedback. This should be an interactive tool containing the voices of a broad and diverse community with common goals: centering the rights of the trafficked persons in the justice process.

We hope that you will find this electronic bulletin useful and ask you to share any comments, news on recent cases or legislative developments and initiatives to combat trafficking and improve access to justice for trafficked persons with us, so they can reach a world-wide audience. Please recommend this Bulletin to others who may be interested, or if you would like to not receive this bulletin in future, please let us know at gaatw@gaatw.org.

*Warmly,
The Access to Justice Team*

ABOUT THE GAATW-IS ACCESS TO JUSTICE PROGRAMME

GAATW is an alliance of autonomous organizations working together to promote human rights of trafficked persons and others affected by trafficking and anti-trafficking policies. We believe that trafficking should be seen in the context of migration, labour and globalization, and that a Rights-Based approach is needed to address trafficking. Members are supported by an International Secretariat (IS), which facilitates discussion and research on issues of common concern.

The current Access to Justice (AtJ) Programme derives from recommendations and analysis provided at GAATW's 2004 International Members Congress. Its aim is to increase access to justice for victims of human trafficking in accordance with human rights.

The Programme involves research, networking and advocacy on the impact that procedures within the justice system are having on the human rights of trafficked persons. The Programme, centres the experiences of the migrant/trafficked person in its discussions. Do investigations and trials advance the rights of trafficked persons or impinge further on those rights? How can the rights of victims be put at the center of the justice process?

The assumption behind the Programme is that, although prosecution of traffickers is now a key anti-trafficking strategy worldwide, few governments are examining the human rights impact of these processes on victims/witnesses and other affected groups.

In June 2006 the GAATW-IS organized a Global Consultation on prosecution initiatives to combat trafficking, which brought together twenty-one participants from ten countries (India, Thailand, Cambodia, Brazil, Mexico, the United States, Spain, Russia, the Ukraine and Nigeria) including survivors of trafficking, lawyers, NGO support workers, a police officer and a prosecutor. It revealed that very few trafficked women were accessing any form of justice, or obtaining a fair remedy, that sustained and comprehensive action at local, national and regional levels to increase access to justice was needed, and that partnership and cooperation between ALL actors in the justice process was key in securing access to justice. Another major finding was that creating change requires long-term commitment and constant reflection. We hope that the AtJ Programme (and the AtJ e-bulletin) will contribute to this.

LEGAL DEVELOPMENTS: ACCESS TO JUSTICE IN NEPAL

In this first edition, we bring you news of the access to justice context and legal developments taking place to address trafficking in Nepal. Nepal, a country of 29 million people sandwiched between China and India, is an origin country for significant numbers (some say thousands) of people trafficked into a variety of sectors, mainly in India and the Gulf States. Internal trafficking also takes place, partly due to historical systems of debt bondage in parts of the country, and also linked to the internal conflict which wracked Nepal between 1996 and 2006.



In March 2007, the GAATW-IS together with member organizations held a consultation on Access to Justice for Survivors of Trafficking in Nepal. The meeting brought together survivors of trafficking, members of their families, and their advocates, together with lawyers, law enforcement and policy makers. The survivors described in moving terms the barriers they had faced to get justice, and the difficulties they still faced in their lives.

Access to justice for trafficked persons in Nepal is extremely difficult. To date, only one hundred cases have been prosecuted, and only 40% of these have resulted in convictions. Even where the prosecution is successful, the victims of the crime do not receive any compensation or other relief to rebuild their lives. The state also provides no shelter accommodation so that the women must immediately go back to their villages, but they are not provided with witness protection either before or after the case is finalized. Survivors and their families spoke about difficulties in filing complaints with the police, corruption of lawyers and judges, trials in which they were humiliated by intrusive questioning, and ongoing harassment and threats from the traffickers' (even years after the trial has taken place).

Police and prosecutors, for their part, explained that trafficking cases are difficult to prosecute; witnesses turn 'hostile' due to family pressure or threats from the traffickers and evidence collection is extremely challenging. They also noted corruption in the courts and among lawyers, and the lack of women in the Nepali justice system (less than thirty out of more than 20,000 police officers, and only two out of around 250 prosecutors, are women).

This current legal framework in Nepal is the 1986 Traffic in Humans (Control) Act, which is limited to trafficking into commercial sexual exploitation, and which does not provide for compensation or human rights protections for victims. The Law is supplemented by a National Policy, an Action Plan, and an Institutional Mechanism to Combat Trafficking in Women and Children for Commercial Sexual Exploitation (1998). The latter was revised in 2001 to include trafficking into all sectors. Enforcement and implementation of all of the above is, according to participants at the Consultation, poor. Nepal is also one of the few countries to have a National Rapporteur on Trafficking in Persons under the National Human Rights Commission.



A new Bill is now before Parliament, which would address many of the limitations in the current Law. The Traffic in Human Beings (Control) Bill was in fact drafted by the Ministry of State for Women, Children and Social Welfare (MoWCSW), in consultation with civil society, in 2001. However, it lapsed in 2002 when the Nepali Government was dissolved by the King. The new draft has again been amended and is likely to be passed this year, but NGOs are still demanding more changes. In particular, NGOs and survivors criticize the compensation provision in the Bill by which fines to traffickers would be divided equally between the victim and the Government, with the amount to the Government to go into a fund for implementing protection measures.

NGOs and survivors of trafficking argue that victims deserve the entire amount of the fine and that money for the Government fund should come from confiscation of the trafficker's assets. They also suggest a general government compensation scheme, pointing out that Nepal is an origin country in which few traffickers in Nepal are wealthy enough to pay a significant fine and law enforcement to collect the fines is very weak.

Other changes recommended by the Consultation participants include provisions for victim/witness protection be also applied to family members, better asset seizure laws and the ability to access assets in India. They also point out the gender discriminatory provisions in many other laws including limits on women's ability to migrate legally for work.

NOTE: As the legislation is finalized, GAATW's Access to Justice Team will keep you updated.



Relevant links:

- Government of Nepal: <http://www.nepal.gov.np/>
- Office of the Prime Minister and Consular Minister: <http://www.opmcm.gov.np/>
- Supreme Court of Nepal: <http://www.supremecourt.gov.np/>
- UNIFEM: www.unifem.org
- NHRC of Nepal: www.nhrcnepal.org
- OHCHR of Nepal: <http://nepal.ohchr.org>
- National Rapporteur on Trafficking in Persons: <http://nhrcnepal.org/project1.php?ProjNo=2>

Member organizations of the GAATW in Nepal

- Shakti Samuha: <http://www.shaktisamuha.org>
- WOREC: <http://www.worecnepal.org/>

News and Events:

Thai trafficked people to receive compensation in the US: A total of US\$1 million will be paid to a group of trafficked Thai workers by a steel company in northern California.

<http://www.antislavery.org/homepage/traffic%20news/index.htm>

Young Trafficking Victim in the Marianas Tells Her Story: The United States Senate Committee is considering legislation to bring the Marianas Islands within the U.S. labor and immigration law enforcement jurisdiction.

<http://www.msomagazine.com/radar/2007-02-12-marianassidebar.asp>

Indonesia: Legislature Approves Harsh Bill to Combat Human Trafficking: The House of Representatives has passed a long-awaited bill on human trafficking carrying a maximum 15-year jail sentence and/or a maximum fine of Rp 5 billion for involvement in the human trade. <http://www.thejakartapost.com/weekly.asp>

Cambodia: Agreement on Guidelines for Practices and Cooperation between the Relevant Government Institutions and Victim Support Agencies in Cases of Human Trafficking: The Cambodian Ministry of Justice, the Ministry of Women's Affairs, the Ministry of Interior, the Ministry of Social Affairs, Veterans and Youth Rehabilitation, and the Ministry of Health signed an agreement on 6 February 2007. These ministries signed the agreement with Victim Support Agencies outlining Guidelines for Practices and Cooperation between the Government and NGOs in cases of human trafficking. <http://www.humantrafficking.org/updates/533>

Latest publications:

TITLE: *UK Action plan tackling Human Trafficking*

LANGUAGE: English

PAGES: 114pp.

DATE: March 2007

DESCRIPTION: This UK action plan pulls together the work currently underway to tackle trafficking across government, and creates a platform for future work to combat this ongoing problem. It aims to balance protecting and assisting victims with enforcement work that cracks down on the organized crime groups responsible for much of the trafficking. The Action Plan contains deliverable measures in the areas of prevention, enforcement and prosecutions, and most importantly the protection and support of adult and child victims through the Criminal Justice System

SOURCE: <http://www.homeoffice.gov.uk/documents/human-traffick-action-plan>

..... **TITLE**
: *Guidebook: The crime of human trafficking: A law enforcement guide to identification and investigation*

LANGUAGE: English

PAGES: 24 pp.

DESCRIPTION: This project was supported by the Office on Violence Against Women, US Department of Justice and the International Association of Chiefs of Police (IACP) has created a guidebook for law enforcement on the crime of human

trafficking that covers the federal law, tools for identification, investigation and response, and resources for victim assistance. Also this guidebook can use in conjunction with the roll-call video on human trafficking.

SOURCE: http://www.theiacp.org/documents/index.cfm?fuseaction=document&document_id=895

Roll-Call Training Video: The video was created by IACP to assist law enforcement in identification and investigation of this emerging crime, offer direction on how to best assist victims, and provide an overview of federal laws. The video can be shown in three 8-10 minute segments and includes a discussion guide.

- Segment One - Defining the Crime (9 min, 46 sec)
- Segment Two - Identifying and Responding (10 min, 13 sec)
- Segment Three - Investigating and Interviewing (9 min, 23 sec)

SOURCE: www.theiacp.org.

TITLE: *Overcoming Language Barriers: Solution for Law Enforcement*

LANGUAGE: English

PAGES: 20 pp.

DATE: March 2007

DESCRIPTION: The project was supported by the USA Department of Justice Office Community Oriented Policing Services. The immigration in the U.S. growing and increasingly dispersed, many law enforcement practitioners are looking for ways to improve contact with people who cannot speak or understand English well. This report is the work of Translating Justice and offers a range of practical steps and strategies that agencies can adopt, according to their specific needs and available resources.

SOURCE: http://www.vera.org/publication_pdf/382_735.pdf

TITLE: *Anti -Trafficking Training Material for Judges and Prosecutors*

LANGUAGE: English

DATE: April 2007

DESCRIPTION: International Center for Migration Policy Development (ICMPD) is an inter-governmental organisation with UN Observer status created in 1993 at the initiative of Switzerland and Austria. This training material contains measures designed to raise the awareness of judges and prosecutors relating to trafficking in human beings and aims at providing a modern training package for practitioners who may be exposed to human trafficking of their duties. For more information at elisa.trossero@icmpd.org

SOURCE: www.icmpd.org

Announcement: Call for compensation cases claims

As you know, the GAATW-International Secretariat produces two thematic newsletters every year. The themes chosen are linked to programmatic priorities of the Secretariat and carry discussion among the membership and the larger anti-trafficking/migrant rights community further. The December 2006 issue was on trafficking and the criminal justice system. In July 2007 we will look more specifically at compensation and/or restitution for trafficked/exploited migrant workers. It will feature essays from and interviews with people who use various legal avenues to help trafficked persons or migrants who have suffered some kind exploitation to obtain a remedy. We are calling on you to contribute to the July Alliance News by sharing with us resources, publications and information on claims for compensations or financial relief for trafficked persons so we can share these inputs with the broader community. Please, send us your contributions at: amraa@gaatw.org

Warm regards

The Access to Justice Programme Team

The GAATW-IS Access to Justice Programme Team will send you updated information and resources on AtJ for trafficked people on a monthly basis. Please forward this E-Bulletin to your networks and contact persons offering legal assistance to trafficked people.

- You can find this AtJ E-Bulletin and more information about access to justice for trafficked people in our website www.gaatw.org
- To subscribe free of charge to this AtJ E-Bulletin, please send an email to gaatw@gaatw.org
- Please send feedback about the AtJ E-Bulletin to amraa@gaatw.org or gaatw@gaatw.org

<p>GAATW-IS AtJ E-Bulletin Editorial Board</p>	<p>Global Alliance Against Traffic in Women</p>
<p>Nerea Bilbatua-SPAIN</p>	<p>191/41, Sivalai Condominium</p>
<p>Eleanor Taylor-Nicholson-AUSTRALIA</p>	<p>33, Itsaraphap Road</p>
<p>Davjayev Amarjargal-MONGOLIA</p>	<p>Bangkok, Thailand</p>
<p>Vijaya Vanamala - INDIA</p>	<p>Tel: +66-2-864-1427/8</p>
	<p>Fax: +66-2-864-1637</p>
	<p>Email: gaatw@gaatw.org</p>
	<p>Website: www.gaatw.org</p>



Access to Justice for Trafficked Persons

Centring Rights

Global Alliance Against Traffic in Women



May 12, 2007

AtJ E-Bulletin Issue 2

Dear partners and friends,

Welcome to GAATW's Access to Justice for trafficked persons electronic bulletin.

This second issue begins with a description of access to justice from a human rights perspective. We then give special attention to the right to physical safety during the justice process in the form of victim/witness protection in trafficking cases. Finally, we hope you will find informative the sections on News and Events.

We would like to thank all of you for your feedback and comments regarding this new initiative. The bulletin is aimed to be an interactive tool for use by a variety of actors to discuss the complex issues surrounding access to justice for persons subjected to human trafficking. We would like to encourage all of you to share it with your colleagues, networks and partners providing legal assistance or involved in improving access to justice to trafficked persons, and please do continue communicating with us and forwarding all relevant material and information that you would like to see widely distributed to: gaatw@gaatw.org.

*Warmly,
The Access to Justice Team*

THE RIGHT TO ACCESS TO JUSTICE

Access to justice refers to the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards

Access to justice intersects with human rights in a number of ways. First, it is itself a fundamental human right as set out in Article 8 of the Universal Declaration of Human Rights: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."

Secondly, it is a means to protect and enjoy other rights. Thirdly, for the right to access to justice to be truly enjoyed, a number of other human rights must also be protected, such as the right to information, the right to physical safety, the right to confidentiality and the right to privacy.

A fair and efficient system for providing justice is crucial to the proper functioning of society. Not only does it hold individuals, including state officials,

accountable for their actions, but it also sets norms of behaviour for other citizens. This system must be available to the most disadvantaged.

Promoting access to justice for trafficked persons is crucial because they are often in a specially disadvantaged and vulnerable position in society. Not only are they usually in vulnerable situations when they are trafficked, but they then find themselves in countries where often they do not know the language and are without legal status. In addition, they have suffered a string of human rights violations throughout the trafficking process, from deception or coercion at the origin point to serious exploitation and abuse at the destination point.

Ideally, the justice process underscores the dignity of the person, as well as being a step for individuals to move on with

their lives. Unfortunately, in reality the system is sometimes used to entrench power imbalances and reinforce stigma

and gender discrimination. It is the task of all of us to challenge this.

VICTIM/WITNESS PROTECTION

This month we have chosen the theme of protection of victims and witnesses in trafficking cases.

Lack of protection has been identified by our members and others as one of the most significant barriers to accessing justice, and thus an area for urgent reform. Victim/witnesses and their families in trafficking cases are often vulnerable to threats and retaliation for cooperating with law enforcement. Threats and harassment can continue long after the case is finalised. Protection measures may, therefore, be necessary before, during and after legal proceedings, and in some cases should also be extended to the family members or friends who are at risk of retaliation.

Victim/witness protection describes a whole range of responses to protect the physical safety of the victim or witness.

It is usually provided by the police, and may include everything from a mobile phone to call a particular officer, accommodation in a secure place and closed court proceedings, to relocation and even permanent changes to identity.

Effective victim/witness protection in transnational crime is required under a number of international instruments, such as the UN Convention on Transnational Organized Crime (Articles 24 and 25) and the Palermo Protocol (Article 6-1 and 5). In addition to this, Guidelines 5 and 6 of the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking include a list of protection measures States should implement to protect victims/witness during the investigation and trial phases and also after, when necessary.

FOCUS ON: VICTIM/WITNESS PROTECTION IN SPAIN

In this edition we bring you information about the mechanisms for victim/witness protection for trafficking cases in Spain.¹

It is important to note that in Spain trafficked persons become witnesses in the prosecution process after they have filed a complaint. Spain passed a law for the protection of witnesses in 1994 [*Ley Orgánica 19/1994, de 23 de diciembre, de Protección a Testigos y Peritos en Causas Criminales*], which can be applied to victim/witnesses in trafficking cases.



A lawyer at Proyecto Esperanza, an anti-trafficking organisation based in Madrid that provides legal services to trafficked women, was interviewed recently by the GAATW Access to Justice team about witness protection in Spain. She said that ensuring effective protection for victims of trafficking has an immediate and positive impact on their willingness to present charges against their traffickers, to help during the investigation phase and to testify in the Court.

¹ This section has been prepared in consultation with Proyecto Esperanza, a GAATW member organisation based in Madrid (Spain) providing comprehensive support to trafficked women (www.proyectoesperanza.org).

She also said that the practical implementation of witness protection measures has improved in recent years in Spain, although there is still room for further improvement. In Spain, the witness protection law is applied to individual victims/witnesses on a case-by-case basis. The police may apply provisional witness protection measures at the time that the victim reports the crime. For longer-term measures to be applied, the judge must make an order based on whether he/she appreciates a serious danger to the victim's person. In many cases, the judge's decision is influenced by how much he/she knows and understands about the crime of trafficking in persons.

While the police are now sensitised to the needs and concerns of trafficking victims thanks to repeated requests for victim/witness protection from victims' lawyers, and to the sensitisation and trainings given by NGOs, many prosecutors and judges still lack knowledge about trafficking. This means that the police now often automatically grant protection to victims at the initial phase of a case (that is, when the victim reports to the police). However, the judge does not always confirm the decision of the police to provide witness protection, and thus victim/witnesses are not being granted protection during the crucial trial phase of the case.

Main difficulties identified by Proyecto Esperanza for the effective implementation of the law are:

- Absence of specialised police units for providing victim/witness protection. The police officers investigating the crime are also responsible for protecting the witness/victim, which results in an overload of work to the jeopardy of the protection role.
- Frequent replacement of staff within the police units dealing with trafficking.
- Lack of infrastructure in the courts to ensure appropriate protection (for example, often there are no waiting rooms available for the victim/witness).
- The law does not foresee the use of electronic means (such as video conference) for the victim/witness testimony.

Good practices to ensure victim/witness protection currently implemented in Spain are:

- On-going training to all police officers, not only to senior officers.
- Creation of police units specialised in the crime of trafficking with regional focuses (LAC, Eastern Europe etc).

Proyecto Esperanza's main recommendations to improve the effectiveness of the law are:

- To create courts and prosecution agencies specialised in trafficking in persons. This has been done already with gender-based crimes.
- To improve international coordination with law enforcement in countries of origin. Protection measures should be applicable to the families of the victims/witnesses.

Some relevant data:

- *76% of trafficked women who received assistance from Proyecto Esperanza between 1999 and 2006 (286) reported their cases to the police.*
- *Only 48% of these 286 women received protection under the Witness Protection Law.*

NEWS:

UN: Modern Slavery of Human Trafficking: The United Nations, governments and non-governmental organisations (NGOs) jointly launched The Global Initiative to Fight Human Trafficking in March 2007. Participants recognised that after the adoption and implementation of the UN Protocol, criminal justice systems are not only not being effective in curbing this practice, but that on the contrary, many victims themselves are

convicted of offences such as illegal entry or unlawful residence.
http://www.unodc.org/unodc/press_release_2007_03_26.html

Europe: The European Commission has welcomed the coming into force of three new protocols to the Europol Convention, hoping that they will increase the resources available to the organisation and will improve Europol's work in the European region. Europol contributes to police cooperation in the European Union.
<http://www.europa.eu/rapid/pressReleasesAction.do?reference=IP/07/528&format=HTML&aged=0&language=EN&guiLanguage=en>

Georgia: The OSCE has recently launched an 18-month anti-trafficking programme in the Adjara region of western Georgia, a major transit point for women to Europe. The programme, which is funded by the OSCE Office for Democratic Institutions and Human Rights, will set up a support system for trafficked persons, providing them with shelter, financial help and other means of support. Democratisation Officer at the OSCE Mission to Georgia La Dadunashvili said, "We are adapting to a new stage in anti-trafficking work. While we previously focused on legal assistance, we are now promoting victims' rights and their access to justice, as well as following individual cases."
http://www.osce.org/cthb/item_2_23499.html

Thailand: On 24 April 2007, a Bangkok businesswoman was sentenced to seven years in jail for keeping a girl from Buri Ram province as a slave. The woman was sentenced to serve an additional three and a half years in jail for inflicting severe physical harm on her underage maid and was ordered to pay her 200,000 baht in compensation.
http://archives.mybangkokpost.com/bkkarchives/frontstore/news_detail.html?aid=203971&textcat=General%20News&from=news&click_page=18

Israel: Government Plan for Combating Trafficking for Purposes of Slavery: In February 2007, the Israeli Government drafted a national plan for combating human trafficking for purposes of slavery, including steps in the areas of enforcement, prevention and protection. The purpose of the plan is to eliminate the phenomenon of holding migrant workers under slavery-like conditions - submitting them to forced labor, coercing them to provide sexual services or collecting exorbitant sums from workers and their enslavement to employers and brokers. http://www.kavlaoved.org.il/media-view_eng.asp?id=606

UPCOMING EVENTS:

ARTIPP: The Asian Regional Trafficking in Person Project is organising a Regional Meeting of Specialist Human Trafficking Police Units (21 May 2007, Bangkok) which will gather participants from Cambodia, Thailand, Lao PDR, Myanmar, Vietnam, the Philippines, and Indonesia. A Regional Workshop for Judges and Prosecutors on Human Trafficking will also be organised from 22-24 May 2007. For more information, please contact Yi Yuth Virak, Country Project Coordinator of ARTIP-Cambodia.

OSCE: The Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings is organising a meeting on 27 May 2007 in Vienna on National Monitoring and Report Mechanisms to Address Trafficking in Human Beings: the Role of National Rapporteurs. The conference will look at concrete data gathering and reporting examples based on existing practices of national rapporteurs or equivalent mechanisms of the OSCE Member States. More information available at: <http://www.osce.org/item/24076.html>.

SELECTION OF PUBLICATIONS ON VICTIM/WITNESS PROTECTION:

TITLE: Human traffic, human rights: redefining victim protection
AUTHOR: By Elaine Pearson, Anti-Slavery International
LANGUAGE: English
DATE: 2002

DESCRIPTION: This seminal report reviewed the legal and policy frameworks in ten countries, with a focus on victim and witness protection and access to justice. The ten countries were Poland, Belgium, Colombia, Thailand, Ukraine, the Netherlands, Nigeria, Italy, the United Kingdom and the United States.

SOURCE:

<http://www.antislavery.org/homepage/resources/humantrafficking/Hum%20Traff%20Hum%20Rights,%20redef%20vic%20protec%20final%20full.pdf>

.....
TITLE: Provision of Support to Victims and Witnesses of Crime in Scotland

AUTHOR: Scottish Executive Social Research

LANGUAGE: English

DATE: September 2006

DESCRIPTION: This research explores the provision of support to victims and witnesses of crime. It provides an overview of the existing literature relating to the experiences and perceptions of victims and witnesses in a range of relevant jurisdictions, as well as a review of service provision in Scotland.

SOURCE: <http://www.scotland.gov.uk/Publications/2006/09/15085827/0>

.....
TITLE: Regional Victim/Witness Protection Protocol to Combat Trafficking, Commercial Exploitation and Sexual Abuse of Women and Children in South Asia

AUTHOR: Regional Action Forum on Improving the Implementation of Laws Protecting Women and Children, supported by Sari/Equity Program

LANGUAGE: English, Bangla, Hindi, Marathi, Nepalese, Sinhala, Tamil and Telugu

DATE: Undated, likely 2006

DESCRIPTION: A rights-based protocol developed for the South Asia region based on the observation that few cases of violence against women are reported to law enforcement and very few reach trial stage. Lack of victim/witness protection was identified as a pressing issue.

SOURCE: www.sariq.org/downloads/10_59_17RVWPP%20-%20Final.pdf

.....
TITLE: Outcome Document of the Working Group on Victim/Witness Protection

AUTHOR: Stability Pact for Southeastern Europe, Taskforce on Trafficking in Human Beings

LANGUAGE: English

DATE: March 2003

DESCRIPTION: Useful summary of the Taskforce findings and recommendations on special mechanisms and measures to protect victims of trafficking when they act as witnesses.

SOURCE: www.december18.net/traffickingTaskforceSEEurope.pdf

.....
TITLE: Model Witness Protection Bill

AUTHOR: United Nations International Drug Control Programme

LANGUAGE: English

DATE: 2000

DESCRIPTION: Although prepared for organised crime related to drug trafficking, this model law sets out standards that may also protect victims/witnesses in trafficking cases in the context of organised crime, including closed courts and establishment of a new identity for the witness. It does not however provide for assistance to the family of the victim, as may be required in some trafficking cases.

SOURCE: http://www.unodc.org/unodc/en/legal_advisory_common.html

OTHER PUBLICATIONS:

TITLE: Concise case studies of migrant worker trafficking, rights violation, and related state misconduct in 2006

PAGE: 19pp

LANGUAGE: English

DATE: March 2007

DESCRIPTION: The migrant workers industry in Israel, which, according to officials, is worth 300,000,000 dollars a year, is still a site of major rights violation. KavLaOved has published a concise summary of trafficking and exploitation cases from 2006.

SOURCE: http://www.kavlaoved.org.il/UserFiles/news474_file.doc

.....
TITLE: National Action Plan Against Human Trafficking

LANGUAGE: English

PAGE: 64p

DATE: 2 March 2007

DESCRIPTION: This report, supported by the OSCE Spillover Monitor Mission to Skopje, has three parts:

- Strategy for Combating Trafficking in Human Beings and Illegal Migration
- National Action Plan for Combating Trafficking in Human Beings and Illegal Migration
- Action Plan for Combating Trafficking in Children

This report has an important message on victim/witness protection issues, such as access to legal procedures, protection of witnesses and judicial treatment of victims of trafficking in human beings, full access to the judicial and administrative bodies and providing adequate professional assistance free of charge.

SOURCE: http://www.osce.org/publications/mms/2007/05/24268_851_en.pdf

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- You can find this AtJ E-Bulletin and more information about access to justice for trafficked persons on our website www.gaatw.org.
- To subscribe free of charge to this AtJ E-Bulletin, please send an email to gaatw@gaatw.org.

Please send feedback about the AtJ E-Bulletin to amraa@gaatw.org or gaatw@gaatw.org

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July 12, 2007

AtJ E-Bulletin Issue 4

Dear members, partners and friends,

Welcome to the fourth Access to Justice e-bulletin. In this edition we bring you highlights from the recently published GAATW Alliance News July 2007 Issue, which focuses on the right to compensation for trafficked persons. In addition to this, we have included the usual sections: News, Publications and Events.

We intend that you will use this e-bulletin proactively to exchange information with colleagues in other regions in the world. Is your organization preparing, or has recently attended, a training, event, workshop etc? Have you released a publication or report that you would like to share? Has any relevant legal development (impacting positively or negatively the area of access to justice for trafficked persons) taken place in your country recently? The e-bulletin and the all of us working to promote access to justice for trafficked persons will benefit from your active participation.

We look forward to hearing from you!

Warmly,

The Access to Justice Team

RIGHT TO COMPENSATION. *Victims of any crime and of human rights violations (regardless of their legal status) have a right to be compensated for the losses sustained due to the crime committed on her/him. Compensation can be sought through criminal, civil or administrative procedures, and can be awarded for material (including unpaid wages and medical expenses) and non-material (such as for pain, suffering and trauma) damages.*

Right to criminal compensation: The victim of a criminal act can claim for compensation from the offender as part of a criminal case. Compensation has to be ordered by the court and is part of a guilty verdict.

In criminal cases victims can directly apply for compensation and thus, it is important that prosecutors are aware of the existence of this right to request the judge to make such order.

Right to civil compensation: In civil cases a person (the plaintiff) brings a case directly against a perpetrator to enforce the rights between private individuals. Examples of civil proceedings may be claims for compensation as a result of fraud or deception by a recruiter, claims for unpaid wages against an employer, claims for pain and suffering and medical costs against a trafficker.

Usually a civil claim results in a financial remedy and cannot involve a jail term or fine as these are given only in criminal cases.

RIGHT TO COMPENSATION FOR TRAFFICKED PERSONS: Trafficked persons, as with all victims of human rights violations have a right to a remedy. This means they have a right to access criminal, civil and/or administrative procedures for seeking financial redress - compensation for material and non-material damages resulting from the crime committed to them, unpaid wages, restitution from the offender and other forms. This right exists

regardless of the person's legal status in a country.

The right to a remedy is embedded in human rights law the Universal Declaration of Human Rights Article 8¹ and the right to financial compensation in cases is set out in the Convention against Transnational Organized Crime Article 25 (2)² and in the Palermo Protocol Article 6 (6)³. These instruments require governments to establish adequate procedures or review their legal systems to ensure that victims of trafficking can seek compensation for the damages suffered.

CHALLENGES AND OPPORTUNITIES OF LEGAL PROCEDURES ON COMPENSATIONS OF TRAFFICKED PERSONS:

Systems:	Advantages	Disadvantages
Civil proceedings	<ul style="list-style-type: none"> • The final amount awarded is more likely to reflect the total amount of the 'loss' suffered. • Procedures for the cases reaching the court are sometimes simpler than in criminal cases. • Can often be settled before the trial begins, thus saving the claimant the pain of testifying. 	<ul style="list-style-type: none"> ▪ Processes can be very long and can be easily subjected to delays by the accused party. ▪ Processes can be very expensive as these claims are usually not covered by legal aid. ▪ As the plaintiff is no longer a 'victim' in the trial, some measures for protections may not be available.
Criminal proceedings	<ul style="list-style-type: none"> • The punishment and the fine/order for compensation can be dealt with in one case, thus victims do not have to go to the time and expense of a civil proceeding. • The criminal proceeding offers many protections to the victim (eg. in questioning, privacy) that may not be available in civil cases. 	<ul style="list-style-type: none"> ▪ Not available in many common law countries (except the United States) ▪ Can be high risk: The court won't necessarily order compensation in sentencing; it requires a higher standard of proof than civil cases, and if the offender is found not guilty the right to compensation will be lost; Higher standards of evidence mean that technicalities can lose cases more easily in criminal cases ▪ Relies on the prosecutor to gather evidence of loss, which prosecutors often do not see as their main role.
State compensation schemes	<ul style="list-style-type: none"> ▪ Very useful in those cases in which the trafficker's assets cannot be located and/or confiscated, or when the assets are insufficient to pay the full amount of any court- 	<ul style="list-style-type: none"> • Compensation funds can be limited to victims, thus family members who have suffered losses are not eligible. • The amount of compensation paid is usually less money than victims could recover directly from the traffickers in a court order to compensate for the harm suffered.

¹The Universal Declaration of Human Rights (1948) *Article 8*. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

² The Convention against Transnational Organized Crime (2000) Article 25: Assistance to and protection of victims; ... 2) Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention.

³ The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; Article 6: Assistance to and protection of victims of trafficking in persons; ... 6) Each States Party shall ensure that its domestic legal system contains measure that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

	<p>ordered awards.</p> <ul style="list-style-type: none"> ▪ The procedures are usually much simpler and faster than going to court. 	<ul style="list-style-type: none"> • Decisions are usually made by government agencies who do not have the same training or expertise as judges. • May not give a sense of justice in that the trafficker has not been made to pay for the losses s/he caused the victim.
Labor Courts (a form of civil proceeding)	<ul style="list-style-type: none"> • Can be a fast and effective method of receiving amounts lost due to exploitative practices. • In many countries the burden of proof is on the employer. • Makes the employer pay directly (can give a sense of justice) • Recognises the claimant as a legitimate worker ie. not a "victim" or illegal alien. 	<ul style="list-style-type: none"> • Does not entail a custodial sentence but rather fines and labor penalties • Traffickers can use administrative procedures to escape criminal punishment. • Not always effective to target other persons in the trafficking chain (eg. recruiters/agents) • Not always effective for seeking compensation for non-material loss eg. pain and suffering.

Some examples of the right to compensation:

EU: All European countries provide individuals who have been wronged with avenues for claiming compensation although the methods are diverse, depending on the national legal systems. In some countries the claims are pursued through the criminal courts as a part of the criminal proceeding, in some they are made through civil proceedings, while in others special administrative bodies or procedures have been established to manage compensation of victims of crime. For example: In Bulgaria the *Act for the Support and Compensation of the Victims of Crimes*, enacted in December 2006, provides a mechanism for the compensation of victims of crime, including trafficked persons, and available to all EU citizens. Financial compensation is awarded as a lump sum to compensate for material losses and can range from 250 to 5000 Bulgarian Lev (128 Euro to 2555 Euro). For non-material damage, individuals can also receive support, such as medical consultation, legal advice and material help.

JAPAN: Japanese law does not make special provision for compensation or financial relief for trafficked persons. Compensation is available for victims of crimes in general, but a person without Japanese nationality and domicile in Japan is not entitled to claim such compensation (which is often the case for trafficked persons and undocumented migrants). In 2006 a law was passed to provide for compensation in property damage/loss cases (*Law Providing Benefits to Recover the Loss Caused by Crimes Against Property*), which covers for example a person losing their property through illegal confiscation by the government or a trafficker. However, trafficked persons are not specifically included in the list of eligible victims of crime, because trafficking in persons is considered a crime against the person, not a crime against property.

ISRAEL: Israel has progressive labour laws, and both legal and illegal workers can access the labour courts with good success rates. Also, in 2006 Israel passed an Anti-Trafficking Law, which entitles victims of trafficking and slavery - but not victims of forced labour - to state-funded legal assistance. The law also sets up a state fund from the money confiscated from traffickers and at least half of the money in the fund will be used for the rehabilitation (but not compensation) of victims of trafficking.

MONGOLIA: Trafficked persons returning to Mongolia are often in situations of poverty and

also suffer from depression, and emotional and/or health problems. Currently, services to help them reintegrate into society are almost non-existent and the law does not specifically provide for compensation for psychological and emotional damage or others debts. Traffickers have exploited victims' need for financial support by offering to pay them some money in return for withdrawing the case. The criminal case must be concluded before a civil claim commences and to date, no trafficked person in Mongolia has sought civil compensation.

SOUTH AFRICA: The South African system includes 17 compensation procedures available to victims of sexual crimes in both the criminal and civil spheres if they wish to pursue monetary claims for damages sustained as a result of an assault. Unfortunately, according to one researcher, judges, prosecutors and the Department of Correctional Services are not implementing these procedures in a coordinated manner causing an erratic application of these provisions. The source is:

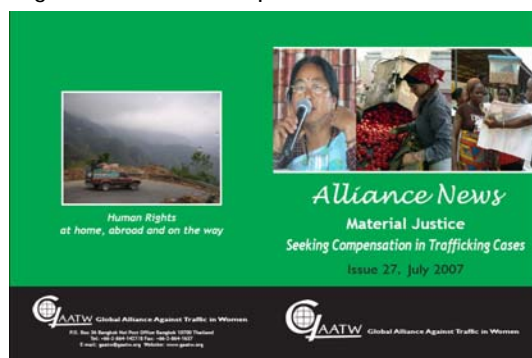
<http://lawspace.law.uct.ac.za:8080/dspace/bitstream/2165/51/1/GreenbaumB+2005.pdf>

THAILAND: Foreign workers who have been victims of trafficking can, in theory, seek compensation under both Thai labour statutes and the criminal law. The amount may include damages, unpaid wages from agents, employers, and/or owners of the workplace into which they were trafficked. In practice, trafficked persons face obstacles at each step of the legal process and successful cases have been extremely rare. The new trafficking law, now under consideration by the Thai legislature, will help to improve this situation.

LATEST DEVELOPMENT: *Material Justice: Seeking Compensation in Trafficking Cases, Alliance News July 2007*

The GAATW-IS produces two thematic newsletters every year providing in-depth analysis of a theme through interviews and articles, as well as information on resources and links to available information on the chosen theme. The July 2007 issue of the *Alliance News* focuses on compensation for trafficked persons and/or migrant workers and bears the title: **Material Justice: Seeking Compensation in Trafficking Cases.**

The lack of avenues for trafficked persons to get compensation, or the difficulties in implementing the existing ones, has been raised repeatedly as a major concern by participants in the different consultations that the GAATW-IS Access to Justice Unit has organized over the past 18 months. Trafficked persons have experienced serious crimes



ranging from fraud, to abuse of power, to physical, sexual and emotional violence, deprivation of liberty, other inhumane treatment, loss of personal documents and possessions, serious labour violations and more. The inability of such persons in practice to receive adequate compensation, a fundamental human right, is of the deepest concern.

This is not to say that nothing is being done. The newsletter analyzes different strategies NGOs, lawyers and governments are exploring to ensure trafficked persons and exploited migrants are compensated at least in part. It looks at countries of origin and destination such as Thailand, Israel, the United States, and Japan, and criminal proceedings, civil proceedings including labour claims and state compensation schemes.

We hope that this Newsletter will provide members and others with a tool to disseminate critical thinking on this area to the broader anti-trafficking community, to share findings and to advocate for improvements in the recognition of the right to compensation for trafficked persons and exploited migrant workers.

The Newsletter is distributed to 200 recipients around the world and can be downloaded

from www.qaatw.org

News:

- Human trafficking:

East Africa: Governments Urged to Strengthen Laws Against Human Trafficking -- Participants in the first Regional Anti-human Trafficking Conference for police gathered members of the Eastern Africa Police Chiefs Cooperation Organization to identify factors contributing to trafficking in the region. They highlighted weak laws, poverty, conflicts, porous borders and the demand for cheap and unprotected labour. During the meeting, Uganda and other countries of the Great Lakes region were urged to put in place effective legislation to combat human trafficking and to coordinate their anti-trafficking efforts. Participants also noted that "legislation should be human-rights-based, taking into consideration not only law enforcement but also victim protection"

<http://allafrica.com/stories/200706251216.html>

Greece: Justice and protection for trafficked women and girls -- in a new report published on 12 June, 2007 Amnesty International stated that despite the enormous scale of trafficking of women and girls for forced prostitution in Greece, the government has failed to guarantee them protection and justice.

http://www.amnesty.org.uk/news_details.asp?NewsID=17375

USA: The passage of new Anti trafficking law in New York State -- After three years of intense advocacy NY State anti-trafficking law has been passed. The new anti-trafficking legislation criminalizes trafficking for all forms of exploitation, although penalties for trafficking into exploitation in the sex industry are much higher. The new law provides for a range of comprehensive services for trafficking survivors such as health care, emergency housing, job training, and services related to immigration protection as well as to help victims rebuild their lives.

<http://www.stophumantraffickingny.org/release0606LAW.html>

Turkey: Black Sea Economic Cooperation (BSEC) Working Group on combating crime -- The Working Group has ended its session for 2007 with statements that it now has a substantial legal database for countering organised crime in the region, including human trafficking. The BSEC was created in 1992 and gathers the governments of Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Serbia, Turkey and Ukraine. It aims at fostering interaction among its members, as well as to ensure peace, stability and prosperity in the Black Sea region.

<http://www.turkishdailynews.com.tr/article.php?newsid=76661>

<http://www.bsec-organization.org>

- Migrant workers:

Czech Republic: Czech president confirms stricter punishment for smugglers -- Crackdowns on illegal migration are becoming harsher in Europe. This article explains the new Czech legislative amendment that introduces stricter punishments for those who support and organize illegal migration, but fortunately it is limited to those who are motivated by profit, not those who are motivated by emotional or family bonds. People operating as part of an international group aiding illegal immigrants would face up to 12 years in prison, and those found guilty of crossing a border using violence or threats of violence would face up to 15 years in prison.

http://www.ceskenoviny.cz/news/index_view.php?id=259218

EU: A Comprehensive European Migration Policy -- The European Commission plans to present in September 2007 two legislative proposals (draft directives) on legal migration as well as a report on integration. The legislative proposals deliver the first phase of implementation of the Policy Plan on Legal Migration: a directive on conditions of admission

to the EU for high-skilled workers and a directive on the rights of legal immigrants in employment.

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/188&format=HTML&aged=0&language=EN&guiLanguage=en>

Spain: A tribunal rules that an undocumented migrant worker is entitled to get the unemployment benefits corresponding to the time under which he worked without working permit. -- After almost two years working 7 days a week between 12 and 18 hours a day for around 31 euros a day, High Court of Justice of the Basque Country has ruled that a Bolivian undocumented migrant is entitled to get the unemployment benefits corresponding to the time under which he worked without working permit. This is the first time such ruling takes place in Spain.

http://www.elpais.com/articulo/espana/papeles/derechos/elpepuesp/20070618elpepinac_10/Tes

- See also:

La Strada International (LSI): Documentation centre -- LSI is a network of nine independent human rights NGOs (in Belarus, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Macedonia, Moldova, the Netherlands, Poland and Ukraine) member of GAATW. LSI has recently launched a new searchable database holding a wide variety of background documents, legislation and opinion pieces on trafficking in human beings and related human rights issues. For more information on the documentation centre:

<http://www.lastradainternational.org/?main=documentation>

Events:

Government of Jamaica: Training to Government and NGO workers to Provide Assistance to Victims of Human Trafficking -- IOM announced that it has been training sixty persons on aspects of direct assistance to victims of human trafficking. Participants included representatives from several government and NGOs.

http://www.jis.gov.jm/justice/html/20070612T120000-0500_12252_JIS_PERSONS_BEING_TRAINED_TO_PROVIDE_ASSISTANCE_TO_VICTIMS_OF_HUMAN_TRAFFICKING.asp

Ukraine: International conference on combating trafficking in human beings and compensating victims of trafficking -- The OSCE-organized conference was attended by representatives of the Ukrainian Government, law enforcement bodies and the judiciary, international organizations and the NGO community. During the conference a number of international experts presented their experiences in combating trafficking in human beings and the provision of compensation to victims in various OSCE participating States, including Germany, Italy, and USA. They also exchanged experiences and opinions, and fostered networking among legal practitioners dealing with anti-trafficking cases throughout the country. <http://danatip.org/news/35>

Upcoming events:

Council of Europe - Action against Trafficking in Human Beings: Measures to Prevent, Protect and Prosecute, Yerevan, 5-6 September 2007

The Council of Europe's Gender Equality and Anti-Trafficking Division of the Directorate General of Human Rights and Legal Affairs in co-operation with the Ministry of Foreign Affairs of Armenia will be holding the eighth information and awareness raising seminar in the framework of the Council of Europe Campaign, in Yerevan (Armenia) on 5 and 6 September 2007. The aim of the seminar is to raise awareness to the problem of trafficking in human beings among governments, parliamentarians, local and regional authorities, NGOs and civil society, and to promote the signature and ratification of the Council of Europe Convention on Action against Trafficking in Human Beings. The seminar will bring together 100 participants from Armenia, Azerbaijan, Belgium, Bulgaria, Croatia, Georgia,

Romania, the Russian Federation and Turkey. The draft agenda and more information can be found at:

http://www.coe.int/t/dg2/trafficking/campaign/Docs/SeminarsConf/YerevanSem_en.asp

The European Summer School: **“European Union Law and Policy on Immigration and Asylum” will be held from 2-13 July 2007 at the Universite Libre De Bruxelles.** The aim is to provide participants with a comprehensive understanding of the immigration and asylum policy of the European Union from a legal point of view.

<http://www.ulb.ac.be/assoc/odysseus/Summer07UK.html>

Selection of publications on the right to compensations:

TITLE: Crime Victim Compensation Directory

AUTHOR: Office for Victims of Crime

LANGUAGE: English

PAGES: Only by electronically format

DATE: 2002

DESCRIPTION: This directory describes state sponsored crime victim compensation programs. Provided by the National Association of Crime Victim Compensation Boards, this off-site directory (housed outside of the OVC Web site) includes details on each state's requirements, benefits, and procedures

SOURCE: <http://www.nacvcb.org/progdir.html>

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TITLE: Assistance for the Implementation of the ECOWAS Plan of Action against Trafficking in Persons

AUTHOR: UNODC,

LANGUAGE: English

PAGES: 172

DATE: 2006

DESCRIPTION: This Manual presents the definitions of trafficking in human beings and smuggling of migrants as well as general guidelines on investigation and prosecution of human trafficking cases, with a focus on cooperation between ECOWAS Member States.

SOURCE: http://www.unodc.org/pdf/ecowas_training_manual_2006.pdf

.....
TITLE: A Guide for Legal Advocates Providing Services for Victims of Human Trafficking

AUTHOR: The United States Conference of Catholic Bishops (USCCB), the Migration and Refugees Services (MRS), the Catholic Legal Immigration Network (CLINIC) and the Legal Aid Foundation of Los Angeles (LAFLA)

LANGUAGE: English

PAGES: 300

DATE: November 2004

DESCRIPTION: This important and widely-used manual for advocates representing victims of abuse and crime. The Manual contains various needed information about human trafficking, how to assess and meet the needs of victims of human trafficking, public benefits for victims of human trafficking, and resources for advocates serving victims of human trafficking and other forms of abuse and crime, among others.

SOURCE: <http://www.lafla.org/clientservices/specialprojects/AdvocGuide.pdf>

Latest publications:

TITLE: New Anti-Trafficking Training Materials for EU Judges and Prosecutors

AUTHOR: International Centre for Migration Policy Development (ICMPD)

LANGUAGE: English

DATE: May 2007

DESCRIPTION: The International Centre for Migration Policy Development (ICMPD) has created a set of anti-trafficking training materials (including background reader, handbook and curriculum) to train judges and prosecutors in EU Member States on the basis of the relevant EU and international standards. Its purpose is to support EU Member States in

preparing for effective application of new anti-trafficking legislation in line with the provisions and definitions of the UN anti-trafficking protocol (Palermo, 2000) and the EU framework decision of 19 July 2002.

SOURCE:

http://www.stopvaw.org/New_Anti-Trafficking_Training_Materials_for_EU_Judges_and_Prosecutors.html

TITLE: Handbook for parliamentarians The Council of Europe Convention on Action against Trafficking in Human Beings

AUTHOR: Document drafted by Mrs Rosario Pardo, consultant expert, in Collaboration with the Secretariat of the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly of the Council of Europe

LANGUAGE: English

PAGES: 93

DATE: June 2007 [Reprinted]

DESCRIPTION: This handbook is intended as a practical tool for parliamentarians. It is designed to suggest working approaches for elected representatives who want to combat trafficking in persons and to promote the CoE Convention.

SOURCE:

http://pdfdownload.bofd.net/pdf2html.php?url=http://assembly.coe.int/committeedocs/2007/Trafficking-human-beings_E.pdf

The GAATW-IS Access to Justice Programme Team will send you updated information and resources on AtJ for Trafficked Persons on a monthly basis. Please forward this E-Bulletin to your networks and contact persons offering legal assistance to trafficked people.

- You can find this AtJ E-Bulletin and more information about access to justice for trafficked persons on our website www.gaatw.org.
- To subscribe free of charge to this AtJ E-Bulletin, please send an email to gaatw@gaatw.org.

Please send feedback about the AtJ E-Bulletin to amraa@gaatw.org or gaatw@gaatw.org

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Access to Justice for Trafficked Persons

Centring Rights

Global Alliance Against Traffic in Women

August 12, 2007



AtJ E-Bulletin Issue 5

Dear members, partners and friends,

Welcome to the fifth e-bulletin on Access to Justice for trafficked persons. In this edition, we bring you information on a topic we find very interesting: the reflection period in destination countries. The reflection period has proved critical in helping trafficked persons recover from the experience without feeling the pressure of detention and/or deportation, and thus enabling them to make informed choices about their future. There are already a number of experiences we can look at critically and analyze what has worked and what has not worked in this area. We hope this issue will be a step in this direction.

Also included in this e-bulletin are our usual sections on News, Events and Publications. We would like to thank our members, partners and friends who have been sending us information about their activities, and feedback on the e-bulletin. As you know, we welcome your ideas and always look forward to hearing from you!

*Warmly,
The Access to Justice Team*

REFLECTION PERIOD IN DESTINATION COUNTRIES FOR TRAFFICKED PERSONS: *During the reflection period, trafficked persons are provided with temporary legal status and protection from detention and deportation measures in destination countries. It is intended to support them to begin the process of physical and psychological recovery and to learn about their rights and options before deciding whether they want to remain in the destination country and to cooperate with law enforcement. The reflection period helps trafficked persons to consider their future without the pressure of forced repatriation or forced participation in the criminal trials of their traffickers and to make informed choices about their lives*

The reflection period should not be confused with the residence permit.

Reflection period: During this period, presumed trafficked persons are afforded legal status and protection from detention and deportation in destination countries. Trafficked persons, in this period, have access to certain support services, such as appropriate and secure housing, psychological counselling, social services and health care, as well as professional advice, including legal counselling. These measures are intended to help them recover from the trauma of having been trafficked and to remain safe from the traffickers. The reflection period is intended for trafficked persons to recover sufficiently from the trauma of their experience, so

Residence permit: It is normally granted after the reflection period is over and is linked to the decision of the trafficked person to cooperate with law enforcement in legal proceedings. During this period, victims have access to safe housing, social assistance and counselling. Resident permit can be short or long term:

Short-term residence is associated with the reflection period and is intended to allow trafficked persons to recover and consider their different options. It should not be conditional on cooperation with authorities. **Long-term residence** goes beyond the reflection period and results in a substantially better level of protection for

they might be willing and able to talk about it and to make informed decisions about whether to take legal action against the trafficker and to pursue legal proceedings for compensation claims. Since such decisions have serious and far-reaching consequences for both the life of the person concerned and for the safety of the family members in the country of origin, the trafficked person needs to have time to weigh all the possible consequences of their choice.

the trafficked person who cannot or does not want to return to the home country. It makes it easier for trafficked persons to have access to the labour market and/or training and gives them a feeling of security that they will not be forced back to their countries of origin at an early date. But it is normally linked to the willingness of the trafficked person to cooperate with the law.

Advocates with expertise in anti-trafficking and victim protection recommend a reflection period of not less than three months, as is granted by some destination countries.

CHALLENGES AND OPPORTUNITIES OF THE REFLECTION PERIOD IN DESTINATION COUNTRIES:

	Advantages	Disadvantages
<i>Reflection period</i>	<p>Trafficked persons are able to access basic services; information, legal counselling and can receive support from the public social services.</p> <p>During this period, trafficked persons are recognised as victims of a crime and therefore granted the protection measures provided by the law.</p> <p>It increases the ability of the police to gather evidence in investigations.</p> <p>It allows trafficked persons to make informed decisions about their future.</p>	<p>It is limited on time and this puts pressure on the trafficked persons to decide on key issues for their future in a short time.</p> <p>After the reflection period has expired, trafficked persons who are returned to their origin countries have to start again from scratch, normally suffering re-victimisation and reprisals by the traffickers.</p> <p>For the law enforcement authorities, this means that they will miss out on information for effectively combating trafficking.</p>
Residence permit	<p>Having a residence permit in the country of destination eventually enhances the cooperation of trafficked persons with the authorities as they feel secure and can take informed decisions.</p> <p>With the residence permit, victims have access to secure housing, and medical, social, psychological, legal, and financial assistance, as well as access to the labour market and education.</p>	<p>Residence permits are linked to the willingness of the trafficked persons to participate in criminal proceeding and to provide evidence for prosecution.</p> <p>Resident permits are normally limited to victims, and family members cannot benefit from it.</p>

SOME EXPERIENCES IN DESTINATION COUNTRIES:

CANADA: The government has developed guidelines defining the status of trafficked victims and offering avenues for victims' assistance. Under these guidelines, officials may grant a temporary residence permit of 120 days (or longer, in special meritorious cases) to provide a reflection period for the victim and an investigative window for law enforcement to determine whether there is enough evidence to pursue a trafficking case. During this 120-day period, immigration officials determine whether a longer residence period of up to three years may be warranted. Victims of trafficking, with a legal status of temporary residence permit, have access to federally-funded emergency medical services, including psychological and social counselling and other programmes and services such as legal assistance. Finally, victims of trafficking are eligible to apply for assistance from funds maintained by the provincial governments for assisting victims.

CHILE: Trafficked victims in Chile can apply for legal residence when they have initiated legal proceedings against their traffickers. A draft anti-trafficking law is now pending, which includes protection mechanisms for victims of trafficking. Currently, NGOs are providing shelters where trafficked persons can receive psychological counselling and support. The government also funds victim-assistance programmes and projects.

GERMANY: Current legislation provides for a four-week reflection period for trafficked persons who testify against their traffickers and may also obtain a temporary residence permit. The Victims' Rights Reform Law, enacted in September 2004, expanded the rights of victims of crime, including trafficking victims, in criminal proceedings. This legislation entitles victims to interpreters and allows the presence of a third party during police questioning. The duration of the residence permit depends on several criteria such as the need for the victim to be available as a witness in criminal proceedings, or the importance of the evidence to be given during the trial.

JAPAN: Trafficked persons in Japan are provided temporary residence and encouraged to assist in the investigation and prosecution of traffickers, but they are not offered long-term legal alternatives. Only some domestic violence shelters such as Women's Consultative Centres (WCC) provide shelter for identified trafficked women. However, assistance to foreign trafficked persons is broadly inadequate, as in-house counselling is offered only in Japanese language and there are no special services to address the specific traumas associated with the crime of trafficking.

FINLAND: Since July 2006, trafficked persons are entitled to a special residence permit if they cooperate with law enforcement authorities. A residence permit issued to a victim of trafficking does not limit the possibility of applying for asylum in Finland and receiving international protection. Before the issue of a residence permit, however, trafficked persons must be granted a reflection period (of a minimum of 30 days and a maximum of 6 months) during which they have to decide whether they will cooperate with the authorities. Cooperation will not be required, however, of victims in a particularly vulnerable position. The grant, or not, of the reflection period is decided by the District Police or a border control authority. The reflection period may be terminated if trafficked persons re-establish relations, voluntarily and on their own initiative, with persons suspected of trafficking in human beings and if the alien is considered a danger to public order, or to Finland's security, health and international relations. It is up to the same authorities that granted the residence permit to terminate it and no appeal is permitted.

COUNCIL OF EUROPE: On 29 April 2004, the CoE issued the Directive 2004/81/EC. Article 6 of the Directive affirms that Member States shall ensure that trafficked persons from third-country are granted a reflection period allowing them to recover and escape the influence of the perpetrators, so that they can take an informed decision about whether to cooperate with the competent authorities. However, it does not mention a minimum time for the reflection period, allowing national laws of states to determine that. According to this Directive, residence permit is linked to the cooperation of the trafficked person with competent authorities.

News:

- Human trafficking

Angola: 3rd annual conference of the African Prosecutors Association (APA) -- Prosecutors from the continent met in Luanda (Angola) and called for international cooperation (including destination countries) to fight against human trafficking.

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/LRON-756B9Z?OpenDocument>

Mozambique: Law Passed to Stop Human Trafficking -- Mozambique's government approved a new anti-trafficking law which foresees longer prison sentences for traffickers.

<http://allafrica.com/stories/200707301173.html>

India: SAARC meet in Delhi this month to fight human trafficking -- Diplomatic Correspondent High officials from SAARC countries met in New Delhi in the last week of July to work out a coordinated rescue and repatriation effort for people trafficked across the SAARC nations.

<http://www.hindustantimes.com/StoryPage/StoryPage.aspx?id=41a8c2d1-b282-44f9-a62b-aa554c834849&&Headline=SAARC+meet+to+focus+on+human+trafficking>

Taiwan: Bill to combat human trafficking - The Taiwanese government announced that it will tackle human trafficking with comprehensive legislation aimed at identifying victims and providing better protection. A draft bill is being worked on and is expected to be placed on the agenda of the Legislative Yuan in September 2007.

<http://www.taipeitimes.com/News/taiwan/archives/2007/07/22/2003370735>

- Migrant workers

Asia: the Financial Times (FT) launched the Asia immigration series, which examines how governments across the region learn to cope with a rise in the flow of migrants.

- Part 1 - Analysis: The Asian melting pot
- Part 2 - Taiwan recognizes debt to migrants
- Part 3 - Learn to read Thai, get an education

<http://www.ft.com/cms/s/5a88dc1e-33bb-11dc-9887-0000779fd2ac.html>

Russia: Draft Law Would Privatise Migration -- Russia could set up private agencies to handle the increase in the inflow of migrant workers. According to a draft law prepared by the Federal Migration Service, private agencies would be licensed to bring migrants to the country and find them work. The legislation would legalise over 1,200 existing agencies. The reform would mainly affect large numbers of workers from poorer, former Soviet republics.

<http://www.themoscowtimes.com/stories/2007/07/13/012.html>

Events and News from members, partners and friends:

On 11 July 2007, the **Committee for the Support of the Dignity of Women (COSUDOW)**, an NGO based in Benin City, Nigeria, opened a shelter that will receive returned trafficked women and will assist them in the reintegration process. cosudow99@yahoo.com

Nigeria's National Agency for Prohibition of Traffic in Persons (NAPTIP) announced that it will start a programme in partnership with the Ministry of Family and Children's Welfare of the Republic of Benin, to rescue children working under conditions of slavery in stone quarries and plantations in Southwest Nigeria. A joint border sensitisation programme took place at the border communities of Seme/Krake, Owode and Idiroko on 23-27 July 2007. www.naptip.gov.ng

ABA-Africa Nigeria Programme conducted trainings in Trafficking in Persons (3-4 July 2007) **for judges and prosecutors**, in collaboration with the National Agency for the

Prohibition of Traffic in Persons (NAPTIP) and the National Judicial Institute. The trainings tried to sensitise judges on the need to be proactive and to take the interest of the victim into consideration in the course of prosecution. After undergoing the training, judges and prosecutors stated that the training had helped improve their understanding of TIP in terms of its conceptual meaning, and procedures and processes of adjudication. <http://www.abanet.org/rol/africa/>

Past events:

The ILO and OSCE **launch a new anti-trafficking project**. On July 19 the International Labour Organization (ILO) announced the launch of a *Comprehensive Anti-Trafficking Programme in Armenia, Azerbaijan and Georgia*. The ILO will work in partnership with the Organization for Security and Cooperation in Europe (OSCE) as well as with the International Center for Migration Policy Development (ICMPD) to implement the project. <http://www.geotimes.ge/index.php?m=home&newsid=5819>

Regional Training Programme to Combat Human Trafficking in the Greater Mekong Sub-region was held on 19 June 2007 at the Mekong Institute, Khon Kaen, Thailand. This half-day meeting focused on the Regional Training Programme which is the first project under the COMMIT Sub-Regional Plan of Action. http://www.no-trafficking.org/inet_eventcalendar/event_detail.aspx?event_id=33

Upcoming events:

Stakeholder Meeting on Human Trafficking: The meeting was scheduled on 7 August 2007 in Phnom Penh, Cambodia. UNIAP Cambodia hosts quarterly Stakeholder Group Meetings on Human Trafficking and is open to all interested participants. http://www.no-trafficking.org/inet_eventcalendar/event_detail.aspx?event_id=43

Afghanistan: The Italian government has funded the construction of a shelter for child victims of trafficking. This shelter can receive about 40 children at any one time. Children will receive free board and lodging, psychological counselling and reintegration assistance. The shelter is expected to open by the end of 2007. <http://www.irinnews.org/Report.aspx?ReportId=73300>

Selection of publications on protection of trafficked persons in destination countries:

TITLE: Human Trafficking for Sexual Exploitation in Japan.

AUTHOR: International Labour Office, Geneva

LANGUAGE: English

PAGES: 111

DATE: 2005

DESCRIPTION: The study focuses on Japan as a destination country for trafficking for sexual exploitation and aims at assisting in the formulation of anti-trafficking legislation and to strengthen law enforcement against trafficking.

SOURCE: <http://www3.ilo.org/public/english/region/asro/tokyo/downloads/r-japantrafficking.pdf>

TITLE: Transnational regimes for combating trafficking in persons: Reflections on the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons.

AUTHOR: Dr Emmanuel Obuah, Assistant Professor, Department of Behavioral Sciences, Alabama A&M University

LANGUAGE: English

PAGES: 31

DATE: 2004

DESCRIPTION: This paper describes and examines the scope, causes and profit of the global trafficking in persons (TIP) and the regimes adopted by the United Nations to combat it.

SOURCE: http://72.14.235.104/search?q=cache:MS5q74xfITkJ:www.isa-south.org/2005%2520Miami%2520Papers_files/Emmanuel_Obuah.pdf+reflection+in+destinati on+country+for+trafficked+persons&hl=th&ct=clnk&cd=18&gl=th

.....
TITLE: Global Migration Perspective No.2 -- Victims of trafficking for forced prostitution: Protection mechanisms and the right to remain in the destination countries

AUTHOR: Olivera Simic, Assistant Project Officer, Child Protection and Participation Programme, UNICEF Bosnia and Herzegovina, Global Commission on International Migration

LANGUAGE: English

PAGES: 46

DATE: July 2004

DESCRIPTION: This study aims to explore the right of trafficked victims of forced prostitution to remain in destination countries through the application of legal standards and victim protection mechanisms guaranteed at the national, regional and international level.

SOURCE: <http://www.gcim.org/attachements/GMP%20No%202.pdf>

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TITLE: National Referral Mechanism (NRM): Joining Efforts to Protect the Rights of Trafficked Persons (*A Practical Handbook*)

AUTHOR: OSCE Office for Democratic Institutions and Human Rights (ODIHR). This handbook was developed and written by Theda Kröger, Jasna Malkoc, and Bärbel Heide Uhl.

LANGUAGE: English

PAGES: 117

DATE: June 2004

DESCRIPTION: The handbook defines roles for governmental institutions and civil society in NRM. It highlights key issues and describes the type of programmes and services that should ideally be available to trafficked persons.

SOURCE: http://www.osce.org/publications/odihr/2004/05/12351_131_en.pdf

.....
Latest publications:

TITLE: "Out of Sight, Out of Mind? Child Domestic Workers and Patterns of Trafficking in Cambodia"

AUTHOR: International Organization for Migration. Research conducted by Eleanor Brown

LANGUAGE: English

PAGES: 78

DATE: January 2007

DESCRIPTION: The research aim for the project was to map the process and mechanisms of trafficking within Cambodia for two target groups -- Commercially Sexually Exploited Women and Girls (CSEWGs) and child domestic workers (CDWs). The research looked at specific indicators of trafficking, including recruitment, levels of deception involved in recruitment, the use of recruiters and paths of migration, levels of payment and debt, freedom of movement, age of entry into domestic work, work hours and patterns of abuse at work.

SOURCE: For orders, please contact: International Organization for Migration Publications Unit 17 route des Morillons, 1211 Geneva, Switzerland or E-mail: publications@iom.int

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TITLE: ASEAN and Trafficking in Persons: Using Data as a Tool to Combat Trafficking in Persons

AUTHOR: International Organization for Migration

LANGUAGE: English

PAGES: 164

DATE: 2007

DESCRIPTION: In 2005, the ASEAN member countries commissioned IOM to conduct a pilot research project to identify good practices in data collection on trafficking, and to prepare a situation report on data collection by government agencies in four ASEAN member countries (Cambodia, Indonesia, the Philippines and Thailand). This report presents the findings of that research and analyses information obtained through reviews of the existing literature, interviews with government officials, and examination of government documents, such as intake forms and annual reports.

SOURCE: http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/books/lowres%20asean%20report-complete.pdf

.....
TITLE: PICUM Report Points to Problems in Human Trafficking Public Policy Framing
AUTHOR: Platform for International Cooperation on Undocumented Migrants (PICUM) By Don Flynn, PICUM Chair
LANGUAGE: English
PAGES: 5
DATE: April 2007
DESCRIPTION: The Platform for International Cooperation on Undocumented Migrants (PICUM) produced a public policy brief addressing current public policy standards that define and work to combat human trafficking. The purpose of this brief is to clarify the current public policy position on the issue of trafficking, and to make recommendations for adapting the definition of human trafficking so that it more accurately reflects the problem.
SOURCE: <http://www.picum.org/>
.....

TITLE: Human Rights Study Shows that Obstacles to Citizenship in Thailand Lead to Vulnerability to Human Trafficking
AUTHOR: Vital Voices Global Partnership
LANGUAGE: English
PAGES: 37
DATE: June 2007
DESCRIPTION: Vital Voices Global Partnership announces its new study 'Stateless and Vulnerable to Human Trafficking in Thailand'. This report examines the legal obstacles to obtaining citizenship for tribal people in northern Thailand and their subsequent vulnerability to human trafficking.
SOURCE: <http://www.vitalvoices.org/files/docs/Vital%20Voices%20-%20Stateless%20and%20Vulnerable%20to%20Human%20Trafficking%20in%20Thailand.pdf>
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The GAATW-IS Access to Justice Programme Team will send you updated information and resources on AtJ for Trafficked Persons on a monthly basis. Please forward this E-Bulletin to your networks and contact persons offering legal assistance to trafficked people.

- *You can find this AtJ E-Bulletin and more information about access to justice for trafficked persons on our website www.gaatw.org.*
- *To subscribe free of charge to this AtJ E-Bulletin, please send an email to gaatw@gaatw.org.*

Please send feedback about the AtJ E-Bulletin to amraa@gaatw.org or gaatw@gaatw.org

<p>GAATW-IS AtJ E-Bulletin Editorial Board Nerea Bilbatua-SPAIN Eleanor Taylor-Nicholson-AUSTRALIA Davjayeve Amarjargal-MONGOLIA Vijaya Vanamala - INDIA</p>	<p>Global Alliance Against Traffic in Women 191/41, Sivalai Condominium 33, Itsaraphap Road Bangkok, Thailand Tel: +66-2-864-1427/8 Fax: +66-2-864-1637 Email: gaatw@gaatw.org Website: www.gaatw.org</p>
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September 13, 2007

AtJ E-Bulletin Issue 6

Dear members, partners and friends,

Welcome to the September issue of the GAATW Access to Justice e-bulletin. On this issue we bring you some analysis of the Right to Information for victims of trafficking who are contemplating or are in the process of cooperating with criminal investigations and prosecutions. Victims of trafficking, like all victims of crime or other harms, have a right to receive relevant information. In the context of trafficking, in which a decision to testify may impact on the person's ability to stay in the destination country, or on their physical safety, such information is especially crucial.

We also bring information about a recent study trip to Indonesia, where a new anti-trafficking law has been recently passed.

You will also find information on recent developments that GAATW members in Nigeria and Brazil have sent us. We would like to thank them for their contributions as well as to encourage all of you to share your news with us.

Finally, and as usual, we hope you will find the sections on News and Publications informative and useful.

*Warmly,
The Access to Justice Team*

GAATW defines the RIGHT TO INFORMATION for trafficked persons: a right to be informed about her legal and immigration options and services available, her rights, and every decision or process that will affect her, or other information that she would consider relevant. This right must be respected not only to provide the person with the tools to make crucial decisions about her future, but also to respect her inherent dignity as an individual with control over her life.

While lack of access to justice is not peculiar to the victims of human trafficking alone, they have a special circumstance of not been adequately informed of their rights,
A lawyers speaking at the GAATW National Consultation on Access to Justice, Nigeria, 2007

"I felt that I could talk to them freely in my own language, I felt safe and secure that they were going to help us and not deport us, I felt happy about the help that they gave me. When they told me that they were going to help I felt that I was free".

(Antonio, talking about being informed of his legal rights and options by other Guatamalan workers who had already experienced the justice system as a victim of trafficking, Global Consultation on Access to Justice, GAATW, 2006)

THE RIGHT TO INFORMATION: THE INTERNATIONAL LEGAL FRAMEWORK

International Instrument/Guideline	Article
Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985	(6)The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by: (a) Informing victims of their role and the scope,

	<i>timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;</i>
Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Conventions Against Transnational Organized Crime. Palermo Protocol, 2000	<i>Article 6 (2) (a): Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases, information on relevant court and administrative proceedings.</i>
OHCHR Recommended Principles on Human Rights and Human Trafficking	<p><i>...Encourages States and intergovernmental organizations to:</i></p> <ul style="list-style-type: none"> - <i>Make effective provision for trafficked persons to be given legal information and assistance in a language they understand, as well as appropriate social support sufficient to meet their immediate needs.</i> - <i>States should ensure that entitlement to such information, assistance and immediate support is not discretionary but is available as a right for all persons who have been identified as trafficked¹.</i> <p><i>Ensure that trafficked persons are informed of their right of access to diplomatic and consular representatives from their State of nationality. Staff working in embassies and consulates should be provided with appropriate training in responding to requests for information and assistance from trafficked persons².</i></p>

SUMMARY

The Right to Information comprises a right to the following kinds of information, in a timely manner and in a language that the person understands:

- **Legal information and assistance.** This might include information on criminal prosecutions but also civil remedies, negotiation and/or mediation options.
- **Information about legal proceedings involving the person,** including explaining the person's role in those proceedings, the expected duration of the case and other important timings. The person should also be apprised of the progress of the case and the final decision.
- **The right to access diplomatic and consular representatives**
- **Other important information.** In the context of trafficking, this may be for example the whereabouts of the perpetrator, possibilities for temporary or permanent residence, or other rights such as to social security assistance.

In this regards, traditionally, human rights advocates and service providers have been the primary source of information, protection, and services to survivors of trafficking and their family members and giving information relevant on issues mentioned in above.

¹ Guideline 4: Ensuring an adequate legal framework, paragraph 8

² Guideline 6: Protection and support for trafficked persons, paragraph 3

COUNTRY EXAMPLES OF THE IMPLEMENTATION OF THE RIGHT OF VICTIMS OF CRIME TO INFORMATION:

US Department of Justice. Civil Rights Divisions: Trafficking in persons: A guide for non governmental organization: Federal victim specialists can provide the following information to victims of federal crime: Information about:

- available protections (especially against threats and intimidation) and remedies
- emergency medical and social services
- shelter options and referrals to public and private programs available to provide counseling, treatment, and other support to victim
- victim's rights and his or her role in the criminal justice process
- general information about the status of an investigation and notice of important case events
- information about how to apply for crime victim compensation through state compensation programs, information about restitution
- information about the right to individual privacy and confidentiality issues.

<http://www.usdoj.gov/crt/crim/wetf/trafficbrochure.html>

Netherlands: Information provision -- The programme Bonded Labour in the Netherlands (BLinN) is a joint initiative of Humanitas and Oxfam Novib. It is also member organization of the GAATW. It was set up in 1999 to support persons (mainly women) affected by trafficking in the Netherlands. BLinN recognizes that victims of trafficking have little access to information and depend on their social workers.. BLinN works to improve the provision of information to victims of trafficking as an important step towards their independence. It disseminates information about the rights of victims of trafficking, and other relevant themes such as Dutch society, raising children, health or sexuality, through leaflets, courses, information meetings, website, and other venues.

<http://www.blinn.nl/?c=projecten&lang=gb>

Latest Development: Indonesia

In 19 April 2007 the Indonesian government enacted Indonesia's first comprehensive anti-trafficking law (Law on the Eradication of the Criminal Act of Trafficking in Persons 2007). The Law sets out a definition of trafficking that complies with the Palermo Protocol and that criminalizes both internal and cross-border trafficking. Two members of GAATW's Access to Justice team visited the country in August 2007 and spoke to government officials and staff members of INGOs and NGOS. Almost all expressed their overall satisfaction with the law and the drafting process, although Institut Perempuan of Bandung criticized the lack of a specific crime of trafficking of a child (children are only included as child victims of 'human trafficking') and the absence of linkage to victim/witness protection laws.

Indonesia sends out hundreds of thousands of migrant workers each year, many of whom end up in situations of exploitation either before they leave Indonesia or in the country of destination. Trafficking of women and children also occurs within Indonesia for prostitution and forced labour. Calls for justice have largely fallen on deaf ears although Government awareness of and interest in human trafficking has increased in recent years. Many are hopeful that the new law will bring more efforts to prevent and prosecute trafficking cases, and more protection for trafficked persons.

GAATW will support its members in Indonesia to monitor the implementation of the law and to identify the practical obstacles for access to justice for trafficked persons in Indonesia. Lack of coordination at all levels, lack of information (especially at the grass-roots), lack of resources, lack of understanding of the new law, lack of contacts in destination countries (especially Middle East) and a weak (from a human rights protection perspective) Memorandum of Understanding Between the Republic of Indonesia and the Governments of Malaysia on the Recruitment and Placement of Indonesian Domestic Workers signed on May 13 2006 between the governments of Malaysia and Indonesia were common problems mentioned by NGOs support persons in our interviews.

NGOs providing legal assistance to trafficked persons in Indonesia:

Solidaritas Perempuan (based in Jakarta with branches in most regions) - soliper@centrin.net.id

LRC-KJHAM (Semarang) - lrc_kjham@yahoo.com

YASANTI (Yogyakarta) - yasanti@yogya.wasantara.net.id

PKPA (Medan) - pkpamdn@indosat.net.id

News:

- Anti-trafficking legislations, policies and plans

Bahrain: New Bill Against Human Trafficking -- The Bahrain government has prepared a new anti-trafficking bill that includes prison sentences and fines for anyone engaging in human trafficking, as well as measures for the confiscation of the individual's property and the means used to commit the crime. The bill also foresees the establishment of a national committee to fight human trafficking.

http://www.thememriblog.org/blog_personal/en/2563.htm

Colombia: 1st Workshop on National Anti-trafficking Legislation (21-22 August, Bogotá). This Workshop, organized by the Colombian Ministry of Foreign Affairs and the (Organization of American States) OAS Department for the Prevention of Threats against Public Security, was attended by delegates of 16 member-states of the OAS. The main aim of the Workshop was to raise awareness about the importance of States in the region both enacting comprehensive national anti-trafficking legislation that complies with the Palermo Protocol, and exchanging experiences on implementing existing anti-trafficking laws. IOM and UNODC made presentations during the workshop. If you wish to find more information about this workshop, please contact the GAATW Access to Justice Team.

Kenya: Tackling Human Trafficking Through a National Plan of Action -- The Kenyan Government (with IOM support) has created a task force to develop a national action plan to combat human trafficking. The draft plan is expected to be presented to a national steering committee on countering human trafficking in September this year.

<http://allafrica.com/stories/200708170834.html>

Mauritania: Mauritania's New Anti-Slavery law -- The Mauritanian National Assembly has passed a new anti-slavery law. Organizations such as the Open Society Justice Initiative have hailed the passing of the law but also note that the law contains weaknesses that could undermine enforcement efforts.

http://www.justiceinitiative.org/db/resource2?res_id=103826

Southern Africa: UN lobbies South Africa to pass anti-human trafficking laws - Two news articles about UNODC's efforts to engage South Africa in the fight against human trafficking, a significant problem in southern Africa. Almost all Southern African Development Community (SADC) countries have ratified the 2003 protocol to stop human trafficking, with the exception of Angola, Swaziland and Zimbabwe.

<http://allafrica.com/stories/200708130517.html>

- Other developments on human trafficking

Azerbaijan: Network of Lawyers Established to Combat Human Trafficking - The Juridical Assistance Fund of 'World of Peace' has been established a network of lawyers to combat human trafficking in Azerbaijan. The aim of the network is to inform the public about the problems of human trafficking and to render assistance to its victims. Thirty-three lawyers will work within the network.

<http://news.trendaz.com/cgi-bin/readnews2.pl?newsId=985891&lang=EN>

Canada: New government strengthens protection for victims of human trafficking -- The Canadian Minister of Citizenship and Immigration has reported the introduction of new measures to extend the length of the temporary resident permit (TRP) for victims of human trafficking to 180 days from the current period of 120 days. This visa now also allows the visa-holder to apply for a work permit – an option not previously available.

<http://www.cic.gc.ca/english/department/media/releases/2007/2007-06-19.asp>

East Africa: Regional Police Heads Meet in Burundi -- Delegates from 11 eastern African countries held a two-day meeting in Burundi of the 14th East African Police Chiefs' Council (EAPCCO). This meeting brought together ministers-in-charge of the Police. EAPCCO is an affiliate of Interpol and its responsibilities include increasing cooperation to fight trans-border crimes, including human trafficking.

<http://allafrica.com/stories/200708280086.html>

Indonesia: Indonesian police to have anti-trafficking training - Indonesian press has reported that Indonesia will be the first country in the world to introduce a computer-based training program to help police and authorities tackle human trafficking and other transborder crimes. The program of 76 modules was developed by the Jakarta Centre for Law Enforcement Cooperation and the UNODC.

<http://english.people.com.cn/90001/90777/6241266.html>

Nepal: Regional study on the anti-trafficking legal framework in South Asia -- The Kathmandu School of Law (KSL) has shared the findings of a regional study for harmonization of the anti-trafficking legal framework in Nepal, India and Bangladesh. The study stresses that anti-trafficking laws in these countries have prioritized punishing traffickers rather than protecting and rehabilitating survivors.

<http://www.kantipuronline.com/kolnews.php?&nid=119384>

Kentucky, United States: Human Trafficking Study in Kentucky State -- A new study out of the University of Kentucky identifies 69 documented cases of human trafficking across the State, in sectors ranging from agriculture and domestic work to the sex industry. The researcher says that the report is the first to give an idea of the extent of the problem including that it includes many sectors, and both immigrants and US citizens, and that women and children are most vulnerable.

<http://www.wtvq.com/midatlantic/tvq/news.apx.-content-articles-TVQ-2007-08-24-0004.html>

Zimbabwe: IOM to open centre for undocumented Zimbabwean migrants -- The International Organization for Migration (IOM) is establishing a second reception centre in Zimbabwe to provide a 'soft landing' for undocumented Zimbabwean migrants being deported from neighboring countries. Last year 38,000 Zimbabweans were repatriated from Botswana to Zimbabwe.

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/EK0I-76R3SH?OpenDocument>

Some news from members, and friends:

From Brazil:

SMM, a member of the Inter-ministerial Working Group in charge of elaborating the National Anti-Trafficking Plan (together with another GAATW member IBISS-CO) informed that the Working Group has presented its final report to the President of the Republic on September the 6th.

The National Anti-Trafficking Plan, which outlines objectives, actions, activities and goals, as well as deadlines and responsibilities for implementation, is the culmination of a process that started in 2000, when Brazil ratified the Palermo Protocol. The plan follows the October 2006 approval of the National Anti-Trafficking Policy and will be in force for two years after its approval.

SMM and IBISS-CO participated in the Working Group on behalf of GAATW-Brazil. The main demand made by civil society organizations that participated in the preparation of the National Anti-Trafficking Plan was provision for CSOs to monitor the Plan's implementation. You can find more information at: www.smm.org.br

From Nigeria:



A dream comes true! The Committee for the Support and Dignity of Women (COSUDOW) opened a shelter for returnee trafficked women in Benin City (Nigeria) on the 11th July 2007.

The work has just begun for COSUDOW. The challenge now lies in the rehabilitation and integration of the returnees, all of whom have been exploited and carry within them a deep sense of hurt and emotional and psychological trauma. They rely on COSUDOW for medical treatment, food, clothing and shelter, counseling, economic integration and after-care. For more information about COSUDOW's work, please contact: Sister Florence, Nwaonuma, SSH. (Project Coordinator) Committee for the Support of Dignity of Women, 6A, Ehaekpen Street, off Igbesamwan Street, Off Akpakpava Road, Benin City - Nigeria. Phone: +234 803 961 7383; +234 803 394 2652 or email to cosudow99@yahoo.com

Upcoming events:

French Republic Human Rights Prize: Call for application - France has announced the themes for the 2007 French Republic Human Rights Prize: Combating Human Trafficking and Freedom of Expression. NGOs from any country can apply for their project to prevent trafficking or protect trafficked persons to be considered. Applications must be made in French and submitted before 30 September 2007 to: Secrétariat Général de la Commission Nationale Consultative des Droits de l'Homme 35, rue Saint-Dominique 75007 Paris France or by email to: michel.forst@cncdh.pm.gouv.fr
http://www.diplomatie.gouv.fr/en/france-priorities_1/democracy-human-rights_1101/events_2128/french-republic-human-rights-prize-call-for-application-2007_9718.html

Inter-Agency Working Group Meeting on Human Trafficking: The United Nations Interagency Project to combat trafficking in the Mekong Region has scheduled its next quarterly meeting for 7 September 2007 in Hanoi, Vietnam. http://www.no-trafficking.org/inet_eventcalendar/event_detail.aspx?event_id=93

International Migration Law Training: San Remo, Italy - IOM's International Migration Law and Legal Affairs Department is conducting a training course for government officials on international migration law. For more information, please contact: International Migration Law and Legal Affairs Department, IOM Headquarters, Tel: +41.22.717 9111, Fax: +41.22.798 6150, Email: iml@iom.int

Selection of the publications right to information:

TITLE: **Information for Victims of Trafficking in Persons and Forced Labor**
AUTHOR: The Office for Victims of Crime (OVC)

LANGUAGE: English and other languages Chinese traditional, French Japanese, Korean, Spanish, Thai, Vietnamese

PAGES: 4

DATE: 2002

DESCRIPTION: This brochure (BC 000673) from the U.S. Department of Justice provides basic information about the rights of victims of trafficking in the United States and describes assistance and protections that may be available.

SOURCE: <http://www.usdoj.gov/crt/crim/wetf/victimsbrochure.html>

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TITLE: **Assisting Victims of Human Trafficking In Indonesia Legal Process**

AUTHOR: The American Center for International Labor Solidarity (Solidarity Center or ACILS) and the International Catholic Migration Commission (ICMC)

LANGUAGE: English, Indonesian

DESCRIPTION: The purpose of this manual is to assist NGOs and similar organizations already working on trafficking issues to provide additional support to victims when they become involved in the legal system. It will help NGO service providers to better understand their role within legal processes. The manual is intended for use by laypersons, not legal practitioners. It is designed to provide non lawyers with an overview of the Indonesian legal system so that they can help victims to understand what legal responses are available to them and how to pursue these options.

SOURCE:

http://www.stoptrafiking.or.id/english/index2.php?option=com_content&do_pdf=1&id=4

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<p>GAATW-IS AtJ E-Bulletin Editorial Board Nerea Bilbatua-SPAIN Eleanor Taylor-Nicholson-AUSTRALIA Davjayev Amarjargal-MONGOLIA Vijaya Vanamala - INDIA</p>	<p>Global Alliance Against Traffic in Women 191/41, Sivalai Condominium 33, Itsaraphap Road Bangkok, Thailand Tel: +66-2-864-1427/8 Fax: +66-2-864-1637 Email: gaatw@gaatw.org Website: www.gaatw.org</p>
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Access to Justice for Trafficked Persons

Centring Rights

Global Alliance Against Traffic in Women



October 15, 2007

AtJ E-Bulletin Issue 7

Dear members, partners and friends,

Warm greetings from Bangkok!

We are bringing you the October issue of the GAATW e-bulletin on access to justice. This issue focuses on the Right to Privacy and Confidentiality for trafficked persons. We hope that the information below will shed further light on the centrality of this Right and its consequences when applied and/or ignored on the trafficked persons themselves.

This is the e-bulletin number 7, and it comes, once more, full of news about books, events, conferences, newly enacted laws and other initiatives aimed at combating trafficking through legal and legal-related tool. Amidst all these initiatives we should not forget the importance of bearing in mind and monitoring their consequences on the human rights of the trafficked persons. Are these initiatives actually bringing justice to them? How are they feeling throughout the legal process? What's the final impact on their lives? These were some of the questions we asked ourselves when the access to justice programme started, and it is important to remind them from time to time.

As always, this is aimed at being an interactive tool. Do share with us, a growing community of recipients, your news, information and analysis. We will all benefit from them!

*Warmly,
The Access to Justice Team*

THE RIGHT TO PRIVACY AND CONFIDENTIALITY FOR TRAFFICKED PERSONS: the protection by the State of the privacy and identity of the trafficked persons as well as of her/his physical safety are clearly spelled out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children ¹. The protection of these rights is especially important as the leaking of the trafficked person's identity, address and other relevant information could lead to her/his identification putting her/him or family members in danger of intimidation and retaliation. The law allows some exceptions in especial circumstances such as to facilitate the tracing of family members or otherwise secure the well-being and protection of the victims.

Keeping the identity and location of the victim confidential is a protection from intimidation or retaliation. It also protects a victim/witness from the shame, embarrassment or stigma of having an intimate experience become public knowledge.

In the legal context, this may involve a number of measures including not releasing the victim's name or image to the press, closing the courtroom during the victim's testimony, allowing the victim to testify through closed circuit television or by written testimony, not naming the victim in the decision of the court and sealing the records after the case. The extent to which a victim/witness can enjoy any of the above depends on the jurisdiction; for example, in many countries, the domestic laws prevent judges from closing the court

¹ Article 6.1 and 6.5

unless the victim is a child. Further, in some common law systems, it is a requirement that the victim testifies and be cross-examined by the defendant's lawyers.

In addition to this, the right to privacy and confidentiality needs to be reconciled with the right of any accused person to a fair trial² as well as with the right to information; in this sense, States, international organizations, NGOs and other service providers should promote measures encouraging the media to protect the private life and identity of victims through self-regulation or other regulatory measures. This right has to be equally respected when States and other, engage in data collection procedures.

The protection of rights of the trafficked persons should be put at the center of all legal process. An example of good practices in the area of the protection of the right to privacy and confidentiality of trafficked persons was shared during the GAATW Global Consultation on access to justice (June 2006) by a Spanish organization:

If the witness protection law is effectively applied and the judge appreciates that serious danger exists, s/he can order measures to assure that the identity, address, profession or place of work of the trafficked person remains unknown. The judge can decide that the person's identity does not appear in the proceedings. The judge can also decide that when the person testifies s/he will not be identified visually. Third, the judge can decide that for the purpose of notification and citation the court address will be the place.

This Right (and the absence of it) has an enormous impact on the trafficked person's experience of the criminal justice system. When implemented, it can have a very positive impact on the trafficked person's feeling of empowerment and redress but if it is not implemented its effects are very negative.

A trafficked woman that had had the witness protection law (see box above) applied felt very well protected before, during and after her case was heard, and during the GAATW Global Consultation on access to justice she stated that:

For me, I am very satisfied with my case because the legal process has given me back my life that I thought was lost. After being hit and beaten I felt so lost - why is my life like this? Taking my case and winning has given me back my life, my trust, my confidence.

On the opposite side, one of the trafficked women that participated in the National Consultation on Access to Justice in Nepal (March 2007) stated that:

If you go through the legal process you are denuded. After everything, I am a social outcast, nude in front of everyone. I have heard it discussed that the courts should be closed [to the public] but this has not happened yet. People are curious, they make fun of us. It is sensationalism rather than sensitivity. That is really terrible. Before, my stigma was limited to my community. But then the media and district office got my case, and now when I go anywhere they line up to listen to me but without respect.

News:

- Anti-trafficking legislations, policies and plans

Africa-Gambia: New Law Criminalizes Human Trafficking -- A new law, "Trafficking in Person Bill 2007," which criminalizes human trafficking has been enacted by the National Assembly. The Bill will establish a national agency against trafficking in persons, which will be responsible for administering it.

<http://allafrica.com/stories/200709140815.html>

Cayman Islands: Human trafficking outlawed -- The Legislative Assembly passed the Trafficking in Persons (Prevention and Suppression) Bill 2007.

<http://www.caycompass.com/cgi-bin/CFPnews.cgi?ID=1025259>

Hungary: Hungary Gives Permits to Prostitutes -- In an effort to bring prostitutes into the legal economy Hungary will allow sex workers to apply for an entrepreneur's permit.

http://ap.google.com/article/ALeqM5j9Tnu_EdMCFrIskF6xWZzFVfVfA

India: Indian law against human trafficking for sex, for target clients -- Indian government is set to amend the Immoral Traffic Prevention Act to bring clients under its ambit, rendering them liable to imprisonment up to six months and a fine extending upto Rs 50,000. The Union Cabinet will take up on the Immoral Traffic Prevention (Amendment) Bill to enhance the punishment for those involved in human trafficking for sex, and include clients among the offenders.

<http://aaronsnewspost.blogspot.com/2007/09/indian-law-against-human-trafficking.html>

- Other developments on human trafficking

Azerbaijan: Number Of Human Trafficking Cases Increased In Azerbaijan -- the Department to Combat Human Trafficking victims of human trafficking released new statistics regarding cases of human trafficking registered in Azerbaijan in 2006 as well as the criminal proceedings instituted and filed in 2006 and 2007.

<http://eng.primenewsonline.com/news/130/ARTICLE/15474/2007-09-19.html>

Ghana: No excuse for Human trafficking -- Fishermen at Shama have appealed to the government to stop foreign fishing vessels that adopt illegal fishing methods in Ghana's territorial waters. Ghana National Commission on Children (GNCC) organised the forum to sensitize the people on negative effects of human trafficking. Also lawyer Mr. Nkrumah appealed to the fishermen to help to enforce laws governing the fishing industry by reporting to the authorities the activities of foreign fishermen who flout the laws.

<http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=131040>

Kuwait: opens a temporary shelter for runaway maids -- Kuwait recently opened temporary shelter for housemaids that can accommodate about 50 runaway housemaids. This project and the shelter for runaway housemaids were among several actions initiated by the Kuwaiti government to improve their labor image internationally as well as in preparation for the upcoming visit and review by the representative of the International Labor Organization (ILO) scheduled for November.

http://www.kuwaittimes.net/read_news.php?newsid=MjI5MDQ0Nzgz

- Migration news

Japan: What Japanese Policymakers Should Know about How Government Contributes to Irregular Immigration -- on a recently posted article in the Japan Focus electronic journal, Deborah J. Milly, an associate professor of political science at Virginia Polytechnic Institute and State University in Blacksburg, Virginia explains that by establishing strict immigration regulations, governments run the risk of paradoxically contributing to irregular immigration and identifies three general types of problems in government policies by comparing trends in Japan with South Korean, Spanish, and Italian responses to irregular immigration. To mitigate these problems, nongovernmental advocacy groups have an important role to play.

<http://japanfocus.org/products/details/2523>

EU: EU plans to encourage legal migration to plug labour gap --. EU Home Affairs Commissioner Franco Frattini said he would present proposals to member states on October 23 aimed at reversing a trend drawing skilled migrants to competitors such as the United States and unskilled workers to Europe.

<http://www.timesofmalta.com/core/article.php?id=274380>

Past events:

UN.GIFT ASEAN Regional Workshop on criminal justice responses to trafficking in persons (Bangkok 2-4 October 2007) -- States delegations from Australia, Cambodia, China, Indonesia, Japan, Republic of Korea, Lao PDR, Malaysia, Mongolia, Myanmar (Burma), New Zealand, Palau, Papua New Guinea, Philippines, Thailand, Tonga and Vietnam met as part of the UN.GIFT process to prepare recommendations in the frame of the criminal justice system to be brought to the UN.GIFT meeting in Vienna (February 2008). The workshop was divided in morning sessions during which experts would present different topics in relation to investigation, prosecution, mutual legal assistance and extradition as well as regional cooperation and donor's role, and afternoon working groups in which delegates would agree on recommendations under each topic. NGOs, IGOs and UN agencies had an observer status and met in a separate working group to make recommendation that were subsequently passed on to the State delegates.

The protection of the rights of the victims during the criminal justice system was very little analyzed and addressed as the emphasis was on the role of the trafficked persons as evidence providers during investigations and during the trial phase. Final recommendations (and not "standards" as was originally envisaged) referred mainly to the creation of specialized law enforcement units, effective prosecution, protection of victims as witnesses, coordination among law enforcement agencies and cross-border cooperation.

You can get more information by contacting the GAATW Access to Justice Team.

National committee discusses ways to curb human trafficking -- The UAE National Committee to Combat Human Trafficking held fourth meeting at the Presidential Court in Abu Dhabi to review its progress and discuss several proposed initiatives. The committee discussed the outcome of a training workshop to train police officers and public prosecutors in identifying those involved in human trafficking more effectively. The committee outlined a schedule of additional training workshops over the next six months for government officials. Committee members discussed several initiatives to raise public awareness and provide help to victims, mainly pushing forward a proposal to the concerned authorities for a hotline and e-mail address to receive complaints and information from the public on human trafficking in the UAE. Also the committee is working on an implementation framework for this important legislation. As part of its ongoing efforts to address this issue, the UAE recently ratified the United Nations Convention against Transnational Organized Crime

http://www.khaleejtimes.com/DisplayArticleNew.asp?xfile=data/theuae/2007/September/theuae_September632.xml§ion=theuae&col=

Selection of the publication right to privacy and confidentiality:

TITLE: Human Trafficking Service Provider Manual for Certified Domestic Violence Centers

AUTHOR: Florida Coalition Against Domestic Violence

LANGUAGE: English

PAGES: 35

DATE: 2004

DESCRIPTION: This manual is designed for Florida certified domestic and sexual violence centers that wish to provide direct services to victims of domestic and sexual violence who are also victims of severe forms of trafficking. Important similarities exist between the services provided to victims of domestic or sexual violence and victims of trafficking. These similarities make domestic and sexual violence centers uniquely qualified to shelter and counsel trafficking victims. Yet there are also some important differences between the two groups of survivors. A trafficked person may have special needs requiring assistance from and referral to a wide range of organizations beyond the center's immediate service area. Additionally, trafficked persons often are eligible for special benefits including housing, legal assistance, and refugee services that differ from the types of services that are

available to domestic violence or sexual violence victims. This manual serves as an informational guide for centers to help them understand, provide, and advocate for every steps and needs of victims of human trafficking with right to privacy and confidentiality.

SOURCE:

<http://www.fcadv.org/downloads/legal/Human%20Trafficking%20Manual%20for%20FL%20DV%20Centers.pdf>

.....
TITLE: Regional legal best practices in assistance to victims of human trafficking in beings handbook

AUTHOR: Daniela Gutu, *Lawyer, Association of Women in Legal Careers*

LANGUAGE: English

PAGES: 69

DATE: August 2007

DESCRIPTION: The present handbook is based upon the best legal practices in assistance to victims of trafficking in persons of the participant countries from Bulgaria, Romania, Ukraine, Belarus and Moldova. The objective of this handbook is to enhance the regional cooperation within the framework of the strategies to combat trafficking, through uniform approaches from service providers through exchange and sharing of ideas, experiences and practices between the representatives of different institutions from several regional countries, who are involved in fighting the phenomenon. Therefore legal professionals, police officers, prosecutors, judges, victim's representatives shared and brought to discussion practical and theoretical aspects concerning the criminal proceedings in prosecuting human trafficking, as well as subjects related to the identification of victim, victim's hearing, multidisciplinary team work, confidentiality principle and victim's protection, victims' compensation and seizure of traffickers' assets, the role of the lawyer and of the social assistant during the criminal proceedings against the trafficker and the direct approach towards trafficked victims.

SOURCE:

<http://www.legislationline.org/upload/legislations/0c/7d/28c4c3fb2c469604b4714baea578.pdf>

Latest publications:

TITLE: Exploitation of women and children: A comparative study of human trafficking laws between the United States-Mexico and China-Vietnam

AUTHOR: Description Online guide to the human trafficking laws of the United States, Mexico, China and Vietnam written by Christina T. Le who is Judicial Law Clerk to the U.S. Immigration Court in Houston.

LANGUAGE: English

DATE: 2007-09-18

DESCRIPTION: The author provides an introduction and background information to human trafficking and looks at the efforts of the international community to address the problem. An overview is given to the situation, as it exists between the United States and Mexico and between China and Vietnam including statistics and details of legislation introduced by each country. Additionally, the guide provides an annotated bibliography giving references to printed and online resources including articles, websites, legislation and other official publications.

SOURCE: <http://www.intute.ac.uk/socialsciences/cgi-bin/fullrecord.pl?handle=20070918-092149>

http://www.nyulawglobal.org/globalex/Human_Trafficking.htm

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TITLE: Protection for trafficked children lags behind international standards -- A new report, produced by UNICEF UK and ECPAT UK,

AUTHOR: UNICEF UK and ECPAT U

LANGUAGE: English

PAGES: 47

DATE: 2007

DESCRIPTION: A new report launched by UNICEF UK and ECPAT UK shows that, despite recent moves made by the UK Government to demonstrate its commitment to tackling child trafficking, there are still significant gaps and inconsistencies in child protection standards

for trafficked children in the UK compared to international standards. The report calls for a number of solutions, including providing each trafficked child with a guardian to uphold their best interests, ensuring data on child trafficking is monitored and reported to Parliament, and providing trafficked children with renewable residence permits to secure their legal status.

SOURCE: http://www.ecpat.org.uk/press_01.html

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- *You can find this AtJ E-Bulletin and more information about access to justice for trafficked persons on our website www.gaatw.org.*
- *To subscribe free of charge to this AtJ E-Bulletin, please send an email to gaatw@gaatw.org.*

Please send feedback about the AtJ E-Bulletin to amraa@gaatw.org or gaatw@gaatw.org

<p>GAATW-IS AtJ E-Bulletin Editorial Board Nerea Bilbatua-SPAIN Eleanor Taylor-Nicholson-AUSTRALIA Davjayev Amarjargal-MONGOLIA Vijaya Vanamala - INDIA</p>	<p>Global Alliance Against Traffic in Women 191/41, Sivalai Condominium 33, Itsaraphap Road Bangkok, Thailand Tel: +66-2-864-1427/8 Fax: +66-2-864-1637 Email: gaatw@gaatw.org Website: www.gaatw.org</p>
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November 16, 2007

AtJ E-Bulletin Issue 8

Dear members, partners and friends,

Warm greetings from Bangkok!

Welcome to the November issue of the Access to Justice electronic bulletin. This new edition comes after a very exciting week in which we met with some of you on the occasion of the GAATW International Members Congress celebrated from the 5th to the 8th. The second day of the Congress included a session on Access to Justice that allowed all of us to continue sharing experiences and collectively thinking on strategies to improve access to justice to trafficked persons through working groups discussions on advocacy, sharing of technical knowledge between professionals and mechanisms to ensure that trafficked persons receive information about their legal rights. Precisely, this e-bulletin focuses on the important role played by NGOs in ensuring access to information about legal rights to trafficked persons. We want to recognize the work done by NGOs in this area and to share some experiences with all of you.

We also bring you information about the new GAATW specialized legal website that will be launched by the end of this month and that, as this bulletin, aims at facilitating networking, sharing of information and legal resources among a wide community of lawyers, NGOs and advocates.

Finally, you will also find information about anti-trafficking legislation; events and publications that we hope will be of your interest.

And, as we always say, please do share with us your reflections, activities, news and information as this is your e-bulletin!

Warmly,

The Access to Justice Team

THE ROLE OF THE NGOS IN ENSURING ACCESS TO INFORMATION ABOUT LEGAL RIGHTS TO TRAFFICKED PERSONS

Information gathered by the Access to Justice Team since 2006 has consistently showed that even if over the last years there has been enormous advances towards the criminalization of trafficking at national regional and international levels, lack of knowledge about their legal rights is still one of the main obstacles that prevent trafficked persons to access the justice system. In the survey that GAATW conducted among members providing legal assistance in early 2006 this was overwhelmingly rated as the biggest obstacle. Victims, are thus, generally not aware of their rights to a hearing before an impartial tribunal, to hold perpetrators of the crime of trafficking accountable for their actions and to receive compensation; it seems that not enough is being done when it comes to making these remedies known and accessible for trafficked persons.

At the same time, NGOs are proving to play a crucial role not only in providing legal information to those that have been trafficked, but most importantly, in accompanying them throughout the legal process and in making it an empowering one.

Some of the respondents to the questionnaire sent out by the GAATW-IS to members providing legal assistance in early 2006 reflected on the role of NGOs in ensuring access to justice to trafficked persons:

- *While lack of access to justice is not peculiar to the victims of human trafficking alone, they have a special circumstance of not been adequately informed of their rights and possible remedies against their traffickers. Securing access to justice for the victims is not high on the agenda of the governments and rather all initiatives tend towards securing convictions against the traffickers and redeeming the image of the country.* Respondent from Nigeria
- *For victims of trafficking, accessing to justice is almost impossible without assistance.* Respondent from Israel
- *Access to justice depends greatly on the social awareness and knowledge, first, of police or judicial authorities, and secondly, of NGO's whom can advocate on behalf of the victims and provide them information, assistance and protection.* Respondent from Spain
- *Unless they are under the wing of, or enrolled in, an anti-trafficking program the ability of trafficked persons to access the justice system is next to impossible.* Respondent from the Czech Republic

On a separate interview, staff from a German NGO that assists trafficked persons said: *"without assistance from a NGO, it would be difficult for women to independently access to justice system. Because they are lack of knowledge of legal rights, lack of money to pay a lawyer, also lack of private lawyers with expertise on trafficking¹".*

The social assistance programmes run by anti-trafficking NGOs normally include information about legal rights and, if not direct legal assistance, referral to other organizations that represent victims in court. This allows trafficked persons to make informed decisions about their future and prevents their re-victimization.

SHARING EXPERIENCES:

We would like to share with you the experiences of two GAATW member organizations based on recent interviews with them.

Mongolia: The Centre for Human Rights and Development (CHRD) is the only NGO in Mongolia providing pro bono legal assistance to victims of human trafficking. Founded in 1998, the organization runs 14 volunteer staffs in 14 provinces and has one head office with 15 staff in the country's capital. Since 2002 the CHRD has provided legal information to about 37 victims of human trafficking only two of whom brought their cases to court. In 2006, after conducting one training on human trafficking among lawyers, the CHRD established a network of lawyers willing to provide legal assistance to trafficked persons. In addition to this, CHRD has assisted the family members of those that have been trafficked to initiate a network among themselves in which they share the problems they face during the justice process and receive legal assistance from the lawyers².

For more information please contact Ms. S. Dondov at chrd@mongolnet.mn

¹ GAATW Alliance News "Access to Justice" Issue 26, December 2006

² According to an on-line interview 29th October 2007, CHRD-Mongolia

Thailand: The Foundation for Women (FFW) is a non-governmental organization based in Bangkok that provides social and legal assistance to Thai and non-Thai women and children victims of national and cross-borders trafficking. Based on their experience, trafficked women are more willing to bring their cases to court, and to cooperate with law enforcement officials, if they are informed about their legal rights at the same time as they receive social assistance. Social assistance is thus, used as an instrument to empower trafficked women and to inform them about their rights. The FFW also advocates for the centrality of human rights in the national anti-trafficking legislation. They lobbied for the amendment of the Bill against Trafficking in Women and Children (1999), which has recently been revised and improved through a new Draft Bill of Human Trafficking. For more information please contact Ms. Matthana Chetamee at: tukmatthana@gmail.com

Latest developments: the new GAATW specialized website

A new specialized website with legal resources will be available at the end of November 2007 within the general GAATW website. This website has been developed by the Programme on Access to Justice for Trafficked Persons within the GAATW International Secretariat (IS) and aims at supporting GAATW member organizations providing legal assistance, and others, in improving access to justice for trafficked persons. This website wants to be a hub containing relevant information on legislation, cases and best practices, publications and contact details of practitioners and NGOs providing legal assistance around the world.



This website is the direct consequence of the recommendations received by the GAATW-IS during the Global Consultation on Access to Justice in June 2006, namely, "for the IS to help fostering communication, coordination and sharing of information, resources and experiences among members and other NGOs that provide legal assistance to trafficked persons".

With this *Access to Justice* website we hope to create a platform that will ultimately improve the right of trafficked persons to access the justice system, and that will also help legal assistance providers, human rights advocates and practitioners to communicate among themselves and to improve coordination. As with this Access to Justice electronic bulletin, the website is an initial step, but we will need of your active collaboration to improve it.

We will provide you with the address of this new website in the December AtJ e-bulletin, but in the meantime, please communicate with us at: amraa@gaatw.org

News:

- **Anti trafficking legislation**

Argentina: *Creation of the 1st National Programme to prevent and suppress trafficking in Persons and to assist victims of trafficking (October 4th, 2007)* -- The National Programme will fall within the mandate of the Ministry of Interior, which will be responsible for its implementation. It includes a set of steps to promote coordination among governmental bodies and NGOs, to prevent traffic, to assist trafficked persons (including medical, psychological, social and legal assistance), to raise awareness on trafficking, to encourage research on the topic among others. The Programme also envisages the creation of a National Register of Data related to trafficking in persons.

[For more information, please contact the Access to Justice Team](#)

Ireland: Bill altered to tackle human trafficking -- Justice Minister Brian Lenihan has tinkered with controversial laws being proposed on immigration to avoid a major political row over human trafficking. The forthcoming Immigration Bill will now include clauses dealing with victims of human trafficking for the very first time, including offering them anonymity in court, an unprecedented move in Ireland.

<http://www.independent.ie/national-news/bill-altered-to-tackle-human-trafficking-1199651.html?r=RSS>

Niger: New immigration laws -- The government of Niger is designing a new immigration law that will deal with the provisions governing entry and stay in the country by foreign nationals. Niger is signatory of several regional and sub-regional agreements and conventions on the free movement of people and goods under the ECOWAS, the CEN-SAD and the African Union.

<http://www.angolapress-angop.ao/noticia-e.asp?ID=568830>

Qatar: Law to combat human trafficking soon -- The legal Committee at the National Office for Combating Trafficking in Humans has been working on a new law to combat human trafficking in collaboration with external experts.

http://www.thepeninsulaqatar.com/Display_news.asp?section=Local_News&subsection=Qatar+News&month=November2007&file=Local_News2007111224720.xml

Council of Europe (CoE): Convention ushers in new era in legal protection - After the ratification of the CoE Convention on human trafficking, the Council of Europe is in the process of setting up the Group of Experts on Action Against Trafficking in Human Beings (GRETA), an independent human rights monitoring mechanism on the "Convention on Action against Trafficking in Human Beings". This quasi-judicial body will monitor the implementation of the Council's convention.

<http://www.neurope.eu/articles/79828.php>

Serbia: Anti - trafficking network -- An anti-trafficking network will be established in six Serbian towns (Kraljevo, Novi Pazar, Požarevac, Šabac, Kikinda and Sremska Mitrovica). The aim of the local network is to get people to recognize the problem of human trafficking in Serbia.

http://www.b92.net/eng/news/crimes-article.php?yyyy=2007&mm=11&dd=10&nav_id=45271

Events:

Ghana: Workshop for Human Trafficking Management Board opens.

The Human Trafficking Management Board of the Ministry of Women and Children's Affairs (MOWAC) organized a workshop on the Draft National Plan of Action (including national legislation and policies to address trafficking issues such as protection, support, rehabilitation and re-integration of victims). The workshop also addressed human trafficking issues in West Africa.

<http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=132972>

Nigeria: Human trafficking: Agency workshop on Health Care -- The National Agency for Prohibition of Traffic in Persons (NAPTIP) conducted a two-day workshop on "Approaches in Health Care of Survivors of Human trafficking in Nigeria".

<http://www.thetidenews.com/article.aspx?qrDate=10/26/2007&qrTitle=Human%20trafficking:%20Agency%20seeks%20assistance&qrColumn=NATION>

Serbia: Two-day seminar on the protection and promotion of human trafficking victims' rights.

The seminar was organized by the Council of Europe's Human Rights Directorate, the Council of Europe Office in Belgrade and the Interior Ministry (MUP) and it served to discuss measures to combat human trafficking, protect victims and new ways of cooperation. It was

attended by representatives of the Council of Europe, the governments of the countries taking part and the NGOs from the countries in the region

http://www.b92.net/eng/news/crimes-article.php?yyyy=2007&mm=10&dd=18&nav_id=44666

Malaysia: The Philippine Embassy in Kuala Lumpur conducts an anti-human trafficking workshop.

The Philippine Embassy in Kuala Lumpur organized a one-day workshop for their personnel to enhance procedures in dealing with cases of trafficking in persons, identifying areas of improvement and recommending measures to improve the provision/delivery of assistances/services to victims of trafficking.

<http://news.balita.ph/html/article.php/20071019103933942>

Sri Lanka: U.S. Teams with IOM and Sri Lankan Government to Help Combat Human Trafficking.

The Sri Lanka's Ministry of defense announced the launching of a new program to combat human trafficking funded by the United States and implemented by the International Organization for Migration (IOM). It is aimed at helping law enforcement officials to identify instances of trafficking in persons and to increase the rate of prosecution of traffickers..

http://www.defence.lk/new.asp?fname=20071018_15

Upcoming events:

OSCE/ODIHR Anti-Trafficking Programme: Workshop on Compensating Trafficked and Exploited Persons; Barcelona (Spain) 10th -12th December 2007.

The anti-trafficking programme of the OSCE-ODIHR identified "strengthening access to justice and rights by trafficked persons in OSCE participating States" as one of its main objectives and in 2007 commissioned a Review to analyze the compensation routes available and the practices on compensating trafficked and exploited persons in eight countries (Albania, France, Moldova, Romania, Russia, Ukraine, UK and the USA³).

The workshop in Barcelona will look at this Review with the following two objectives:

- To allow for an exchange of different positions on compensating trafficked and exploited persons in the OSCE region from the perspectives of victims rights, labour rights and migrants rights activists and state actors;
- To discuss ways forward on compensating trafficked and exploited persons.

<http://www.osce.org/odihr/>

Latest publications:

TITLE: Mapping the Realities of Trafficking in Women for the purpose of sexual exploitation in Cyprus

AUTHOR: Mediterranean Institute of Gender Studies (MIGS)

LANGUAGE: English

PAGES: 59

DATE: October, 2007

DESCRIPTION: The MIGS research project aims at gaining and sharing awareness, knowledge and understanding on the phenomenon of trafficking in women for the purpose of sexual exploitation in Cyprus. The report outlines the weaknesses in the National Action Plan and in the legislative framework regarding this issue and suggests ways to combat this phenomenon.

SOURCE: http://www.medinstgenderstudies.org/wp/wp-content/uploads/migs-trafficking-report_final.pdf

³ 'Compensation for Trafficked Persons in the OSCE Region' researched and written for the OSCE-ODIHR by Katy Thompson and Allison Jernow.

TITLE: **Compendium on Best Practices On Anti Human Trafficking by Law Enforcement Agencies**

AUTHOR: United Nations Office on Drugs and Crime Regional Office for South Asia and Government of India

LANGUAGE: English

PAGES: 52

DATE: 2007

DESCRIPTION: This Compendium has been compiled by the New Delhi Institute of Social Sciences, with the assistance of police agencies in various Indian states, and focuses on "strengthening the law enforcement response against trafficking in persons, through training and capacity building", which were organized during the implementation of the project.

SOURCE:

http://www.unodc.org/pdf/india/publications/compendium_best_practices_1_50.pdf

TITLE: **A Legal Analysis of Trafficking in Person Cases in Kosovo**

AUTHOR: OSCE; Department of Human Rights, Decentralization, and Communities Legal System Monitoring Section

LANGUAGE: English

PAGES: 31

DATE: October, 2007

DESCRIPTION: The report is based on the monitoring of investigations and trials of trafficking cases throughout Kosovo and analyses issues such as the understanding of trafficking among police, judges and prosecutors, the investigation phase and the roles of the trafficked persons in the criminal proceedings. The report concludes that very little progress has occurred in the past years with respect to the handling of trafficking cases, and addresses a number of recommendations to the relevant authorities

SOURCE: http://www.osce.org/documents/mik/2007/10/27620_en.pdf

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December 4, 2007

AtJ E-Bulletin Issue 9

Dear members, partners and friends,

We welcome you to the last GAATW electronic bulletin on Access to Justice. During the past nine months we have been bringing you analysis, information, news and publications relevant to the legal sphere of trafficking with the aim of sharing information about, and improving the knowledge on, world-wide initiatives on access to justice, as well as strengthening linkages between like-minded NGOs providing legal assistance, lawyers and a broader community of practitioners in different countries through an interactive method.



Each of the eight previous issues has focused on one specific right and the experiences of organizations in different regions of the world around it so, ultimately, we all benefit from each other's experiences. This last e-bulletin includes a summary of the main points we have raised.

As you know, the GAATW-Access to Justice Website (www.gaatw.net/atj) is already available. We hope it will further develop thanks to your inputs and contributions. The International Secretariat of GAATW will continue working to promote and protect the legal rights of those that have been trafficked. We thank you already for your support.

We hope we will continue together in this journey.

Warmly,

The Access to Justice Team

COMPILATION OF THE PREVIOUS ATJ E-BULLETINS: the Access to Justice Team within the GAATW-IS produced 8 specialized issues since April 2007. This was a new communication tool that responded to some of the key recommendations made to the Access to Justice Programme in 2006, namely improving the knowledge on world-wide initiatives on access to justice and strengthening linkages between like-minded NGOs providing legal assistance, lawyers and a broader community of practitioners in different countries through an interactive method.

No	Issue	Theme
1	The GAATW-IS Programme on Access to Justice	GAATW is an alliance of autonomous organizations working together to promote the human rights of trafficked persons and others affected by trafficking and anti-trafficking policies. We believe that trafficking should be seen in the context of migration, labour and globalization, and that a Rights-Based approach is needed to address trafficking. The Access to Justice Programme derives from the

		recommendations and analysis provided at GAATW's 2004 International Members Congress and during the 2006 Global Consultation on Access to Justice. Its aim is to increase access to justice for victims of human trafficking in accordance with human rights standards, and involves research, networking and advocacy. The assumption behind the Programme is that, although prosecution of traffickers is now a key anti-trafficking strategy worldwide, few governments are examining the human rights impact of these processes on victims/witnesses and other affected groups.
2	The Right to access to justice; Victims/Witness protection	Access to justice refers to the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards Victims/witness protection has been identified by GAATW members and others as one of the most significant barriers to accessing justice. Therefore this is an area in need of urgent reform. Protection measures may be necessary before, during and after legal proceedings, and in some cases should also be extended to the victim's family members or friends who are at risk of retaliation.
3	The prosecution process from the victims perspective	The 'prosecution process' refers to all stages of the criminal justice system aimed at prosecuting a trafficker for trafficking or trafficking-related crimes. This includes the investigation, the trial and any follow-up steps. Centring the rights of the victims in this process is crucial, as the prosecution procedures can result in further re-victimization and violations of the rights of trafficked persons. Experiences by NGOs providing legal assistance and others show that in trafficking cases, in particular, where the victim is centred in the prosecution process, the case is more likely to be successful. This means that effective prosecution is tied to victims' rights and safety before, during and after the trial.
4	The Right to compensation	Victims of any crime and of human rights violations (regardless of their legal status) have a right to be compensated for the losses sustained due to the crime committed on her/him, including material (such as unpaid wages and medical expenses) and non-material (such as pain, suffering and trauma) damages. The different avenues for compensation (criminal, civil or administrative procedures) were analyzed and country- examples on compensation were shared.
5	The Reflection period in destination countries	During the reflection period, trafficked persons are provided with temporary legal status and protection from detention and deportation measures in destination countries. This mechanism is intended to support them to begin the process of physical and psychological recovery and to learn about their rights and options before deciding whether they want to remain in the destination country and to cooperate with law enforcement. Differences between reflection period and residence permit were subsequently analyzed.
6	The Right to information	Victims of trafficking, like all victims of crime or other harms, have a right to receive relevant information and to be informed about their legal and immigration options and services available, rights, and every decision or process that will affect them, or other information that s/he would consider relevant. This right is enshrined in numerous legal instruments, and must be respected,

		not only to provide the person with the tools to make crucial decisions about her/his future, but also to respect her/his inherent dignity as an individual with control over her/his life.
7	The Right to privacy and confidentiality	The protection of these rights is especially important as the leaking of the trafficked person's identity, address and other relevant information could lead to her/his identification putting her/him or family members in danger of intimidation and retaliation. The law allows some exceptions in especial circumstances, such as to facilitate the tracing of family members or otherwise secure the well-being and protection of the victims.
8	The role of the NGOs in ensuring access to information about legal rights	Information gathered by the Access to Justice Team since 2006 has consistently showed that, even if over the last years there has been enormous advances towards the criminalization of trafficking at national regional and international levels, lack of knowledge about their legal rights is still one of the main obstacles that prevent trafficked persons to access the justice system. NGOs are proving to play a crucial role not only in providing legal information to those that have been trafficked, but most importantly, in accompanying them throughout the legal process and in making it an empowering one.

News:

- **Legislation development:**

Portugal: Revisions of the Criminal Procedure Code -- The 15th revision to the Criminal Procedure Code came into effect on September 15. The main reasons for this review related to impositions of International Law, and the slowness in the criminal process itself. Some of the main changes included referred to the inclusion in the penal code of the definitions of terrorism, violent crime and organized crime.

<http://portugalresident.com/portugalresident/showstory.asp?ID=22709>

UK: Catholic Anti-Trafficking Campaigner calls for Pro-Brothels Bishop to Step Down -- Anti-trafficking organizations have demanded the resignation of Portsmouth Catholic bishop Crispian Hollis after the support for the legalization of brothels. It is response to a resolution passed by the Hampshire branch of the Women's Institute, the UK's largest women's organization, calling on the government to legalize brothels.

<http://www.lifesite.net/ldn/2007/nov/07111504.html>

Spain: Draft National Action Plan -- The draft National Action Plan against Trafficking for Sexual Exploitation will stop the deportation of trafficked persons and will include a reflection period of, at least, 30 days, NGOs in Spain announced.

http://www.elpais.com/articulo/sociedad/Gobierno/frena/expulsion/mujeres/explotadas/mafias/elpepusoc/20071130elpepusoc_4/Tes

Thailand: NLA passes human trafficking bill: -- The National Legislative Assembly (NLA) has passed the Anti-Human Trafficking Act, which subjects violators, especially government officials, politicians and office holders to heavier penalties. The Act, which will take effect within the next 120 days, includes also measures against media outlets that publish the identity or pictures of sex crime victims.

http://nationmultimedia.com/2007/11/29/national/national_30057734.php

- Other legal news:

China: More forced into prostitution, labor -- a senior public security official stated that forced labor and sexual exploitation have increased as the trend in human trafficking in China, partially due to the numerous loopholes in the legal and labor systems that protects women and children only and leaves out grown-up and teen males as the law doesn't include provisions for punishing those trafficking people for forced labor or prostitution.

<http://learnchinesegood.wordpress.com/2007/11/22/more-forced-into-prostitution-labor/>

UK: Compensation for victims of people trafficking -- Two women from Romania have been awarded compensation under the Criminal Injuries Compensation Scheme. This is the first time that an award like this has been made. It is hoped that these awards will encourage other victims of people trafficking to seek compensation for injuries and damage suffered at the hands of their trafficker.

www.eaves4women.co.uk.

http://www.adviceguide.org.uk/index/whats_new_nov07_compensation_for_victims_of_people_trafficking.htm

Upcoming events:

Africa: Human trafficking indaba in the cards -- WOMEN and the Law in Southern Africa (WLSA) Swaziland chapter announced the organization of a stakeholder's meeting on human trafficking and their upcoming focus on regional action research on issues of human trafficking, in particular trafficking of women and children.

<http://www.observer.org.sz/main.php?id=40013§ion=main>

United Arab Emirates: Workshops for police to combat trafficking -- on occasion of the International Day for the Elimination of Violence Against Women the UAE National Committee to Combat Human Trafficking announced its plan to organize awareness campaigns to combat human trafficking targeting all sections of the community.

http://www.gulfnews.com/nation/Police_and_The_Courts/10171104.html

Latest publication:

TITLE: "Listening to Victims"

AUTHOR: The International Centre for Migration Policy Development (ICMPD)

LANGUAGE: English

DATE: September 2007

DESCRIPTION: The study takes an alternative approach to research on human trafficking by listening to the victims themselves on South-Eastern Europe. The ICMPD hopes that through articulating trafficking victims' self-defined needs and wants, it will be possible to further develop transnational referral strategies to assist victims and combat human trafficking.

SOURCE:

http://www.stopvaw.org/ICMPD_Releases_New_Study_on_Human_Trafficking_Listening_to_Victims.html

TITLE: Children Speak Out - Trafficking Risks and Resilience in Southeast Europe."

AUTHOR: Save the Children and the Child Trafficking Response Programme in Southeast Europe

LANGUAGE: English

PAGES: 204

DATE: July 2007

DESCRIPTION: This regional report looks at the situation of over 600 children considered "at risk of being trafficked" in seven countries--Albania, Bosnia-Herzegovina, Bulgaria, Montenegro, Serbia, and the UN Administered Province of Kosovo. Listening to the children's voices, the report examines both the factors that make children vulnerable to

labor and sexual exploitation, but also what strengths and resilience the children possess even in the direst circumstances.

SOURCE: <http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/childrenspeakoutregionalreport%5B1%5D.pdf>

TITLE: "Anti-child Trafficking Legislation in Asia: A Six-country Review."

AUTHOR: The International Labour Union's Regional Project on Combating Child Trafficking for Labour and Sexual Exploitation (TICSA-II)

LANGUAGE: English

PAGES: 128

DATE: 2006

DESCRIPTION: The report's review of regional and national laws concludes, in part, that "In spite of many efforts from different actors and numerous perspectives, both internal and cross-border trafficking of children for labour and sexual exploitation remains a significant problem in Asia. This can be partly attributed to the lack of deterring punishments for the perpetrators. In many countries, the legal instruments and their enforcement mechanisms are inadequate to bring the traffickers to justice and to punish them".

SOURCE: <http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/childrenspeakoutregionalreport%5B1%5D.pdf>

<p>GAATW-IS AtJ E-Bulletin Editorial Board</p> <p>Nerea Bilbatua-SPAIN Eleanor Taylor-Nicholson-AUSTRALIA Davjayev Amarjargal-MONGOLIA</p>	<p>Global Alliance Against Traffic in Women 191/41, Sivalai Condominium 33, Itsaraphap Road Bangkok, Thailand Tel: +66-2-864-1427/8 Fax: +66-2-864-1637 Email: gaatw@gaatw.org Website: www.gaatw.org</p>
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