



April 2007

This month GAATW brings you news of two events during March and April. The first is the launch of the *Global Initiative to Fight Human Trafficking and Modern Day Slavery* (UN.GIFT) by the United Nations Office on Drugs and Crime (UNODC). This initiative seeks to draw together global forces to end trafficking worldwide. A series of preparatory events has been planned for 2007 and we give you an update on the first, a Consultation with NGOs. Also this month, we give you further updates on institution-building at the Human Rights Council. We hope that these updates will be of use to you and if you have any inquires or additional information, please write to us. We will be happy to respond to your feedback!

## The UNODC Global Initiative launch...

The UNODC launched its Global Initiative on 26 March 2007 in London to coincide with the bicentenary of the abolition of the trans-Atlantic slave trade. As the UNODC Executive Director Mr Antonio Maria Costa explained, the Global Initiative to Fight Human Trafficking (UN.GIFT) is designed to motivate and assist governments and civil society. It aims "to understand factors of vulnerability to human trafficking; to reduce its impact and its human cost; to take action to prevent and stop it and to help states implement the anti-trafficking Protocol".

UN.GIFT will have three phases. In the preparatory phase which is already underway, the UNODC will consult with various stakeholders in different regions, raise awareness, identify partners and mobilize resources. The second phase will synthesize the insights shared in the previous months and culminate in a mega-conference on 27-29 November 2007 in Vienna. The UNODC hopes the Conference to develop a set of goals, or a "Vienna Pledge", which will translate into a set of achievable action points. It also plans to establish a fund for anti-trafficking initiatives. The third and final phase of UN.GIFT will be the implementation of the action points.

On 24-25 April the UNODC held a consultation in Vienna with representatives of 19 non-government organisations. Since child trafficking was one of the thematic discussions in the sessions of the Commission on Crime Prevention and Criminal Justice the NGO representatives were also invited to participate in two panel discussions on the theme.

Bandana Pattanaik from GAATW-IS, who participated in the 2-day event, provides a report:

## The One-day NGO Consultation (24 April 2007)

The consultation was intended to give NGOs an overview of the planned project and invite their feedback. Ms Kristiina Kangaspunta, Chief of UNODC's Anti-Human Trafficking Unit, emphasised that input from NGOs is necessary for her team to take the Initiative forward. Her team also shared a summary of the written input which NGOs had already provided (see the responses of [GAATW](#) and [La Strada International](#)).

During the day many questions arose, some of which were easily answered and many required dialogue or remained open. NGOs appreciated that the UNODC had sought their input at an early stage, but were concerned that the task the UNODC had set itself was huge. The goal of "harnessing and synergizing" current anti-trafficking initiatives would not be easy. They urged the UNODC to give equal emphasis to all forms of trafficking, not just sex trafficking, and consider the human rights impacts of current anti-trafficking initiatives before beginning new ones. GAATW promised to share the findings of its current research on the topic when the report is ready later this year.

Several NGOs also sought clarification about the United Arab Emirates' financial support to the UN.GIFT. Given the poor track record of the UAE in anti-trafficking and migrant rights, they asked whether the gift comes with strings attached. The UNODC team clarified that none of the donor countries have imposed any conditionality.

Noting that the road map to reach the objectives is just as important as the actual goals, NGOs pointed out that the UNODC must ensure that any planned programme take a human rights based approach.

Following some discussion, all participants agreed that the November conference will have two main sub-themes: vulnerabilities to trafficking and impact or harms of trafficking on the person. A substantial part of the conference will be devoted to deciding future action points within these sub-themes.

## Panel discussions (25 April 2007)

Following the one-day NGO Consultation, the UNODC hosted an afternoon of panel discussions as part of the campaign against child trafficking: *Promise to Protect*.

The first panel on Child Trafficking was sponsored by the Austrian Foreign Ministry. Organisers included the US Embassy in Vienna, the US mission to the Organisation for Security and Cooperation in Europe (OSCE), the US Mission to International Organisations, the OSCE, and the UNODC. Despite so many people joining hands, or possibly because of it, the panel was not clearly focused although some interesting points were made. The head of Austria's organised crime department admitted that much more needs to be done to protect the rights of trafficked children, and the OSCE special representative argued that states must be held accountable to their commitments to protect children's rights. Discussion of these relevant issues was precluded by the large amount of time given by one speaker to the link between trafficking and prostitution and the benefits of the Swedish model. It would have been

useful if the two prosecutors on the panel could also have given concrete examples of cases in which the justice system had or had not protected children's rights.

The second panel, an NGO panel organised by the UNODC and moderated by Amihan Abueva of ECPAT International, was very constructive. Colleagues from Anti-Slavery, Save the Children Foundation-UK, Terres des Hommes, Global March against Child Labour and Casa Alianza gave concrete examples of their work and analysed them from a child rights perspective:

- Klara Skrivankova spoke of Vietnamese children trafficked to the UK and treated as criminals. She noted that although the UK has reasonably good child protection policies, its response to foreign children is disappointing.
- Pierre Philippe from TdH shared the organisation's work in West Africa and explained how seemingly 'good practices' must be closely analysed to determine their sustainability and overall impact.
- Daniela Reale from SCF-UK shared her work with domestic workers in West Bengal, India, and described how community anti-trafficking committees are working to prevent abuse and exploitation.
- Bhuvan Ribhu from *Bachpan Bachao Andolon*, India, gave inspiring examples of how teaching children about their rights can enable them to be leaders in their communities and fight corruption.

If the UNODC were to draw a lesson from the two panels, it is that the sessions in the November conference should be well-planned. At this stage of anti-trafficking activism, it is vital that we look critically at our own work, assess it by the impact it has on the lives of people whose rights we seek to protect, share our learning with colleagues and, where necessary, plan new strategies together.

In the final analysis, the two days at the UNODC were an opportunity for catching up with old friends, networking with like-minded groups and learning about each other's work.

*My heartfelt gratitude to the UNODC team for their openness and warmth! Staying with my dear colleague Evelyn from Lefo and meeting up with Sabine, who was an intern with GAATW-IS last year, gave me an opportunity to experience springtime in Vienna with the Viennese. An afternoon by the Danube and a slow evening in Nashmarkt are truly unforgettable experiences.*

Find more information on the Global Initiative on the UNODC website:

[http://www.unodc.org/unodc/en/trafficking\\_human\\_beings.html](http://www.unodc.org/unodc/en/trafficking_human_beings.html)

### **The Human Rights Council and its institutional mechanisms...**

Last year representatives of GAATW attended the second session of the Human Rights Council in Geneva, and brought you [news](#) of the institution-building decisions that faced the Council. These included the future of the human rights reporting system (known as Special Procedures), the future agenda and working methods of the HRC, the future of the Individual Complaints system, the ways in which the Council will receive Expert Advice and what the new Universal Periodic Review (UPR) mechanism will look like.

The Working Groups established by the Human Rights Council on each of the above mechanisms are now in the last phase of their discussions. During April each has been holding intensive debates with the aim to bring final resolutions to the HRC's upcoming 5<sup>th</sup> Session (11-18 June 2007). On the latter three mechanisms, much progress has been made and the structure and scope of the mechanisms have been agreed on by consent. Indeed, the HRC aims to start conducting Universal Periodic Reviews of states in its second year of work (second half of 2007).

Unfortunately, the first two issues, the Agenda and the future of the Special Procedures mechanism (which includes Special Rapporteurs) have become highly politicised and the members of the respective working groups seem unable to come to a conclusion. Both of these issues will have a crucial impact on what human rights situations will be investigated and brought before the HRC, and thus they will determine the future relevance of the HRC as an organ for dealing with urgent human rights concerns.

In general, the polarisation has occurred between states which are 'friendly' to the concept of human rights, and those that are not. For example, in the discussions on the Agenda, a point of contention is whether cross-cutting human rights situations or issues can be raised at the HRC. Liechtenstein, Mexico, Chile, Austria, Portugal, Norway, Germany for the European Union, Switzerland, Guatemala, the United States and the Canadian HIV/AIDS Legal Network said yes. Pakistan for the Organization of the Islamic Conference, Saudi Arabia, Iran, the Philippines, Algeria for the African Group, China, Cuba, Russia, India, Morocco, South Africa and Ecuador said no.

In relation to the Special Procedures, states are divided over the selection process for the mandate-holders, their working methods, the criteria for reviewing the mandates and the scope of the mandates. A non-paper (last version of 17 April 2007) prepared by Group Facilitator Ambassador Tomas Husak (Czech Republic) summarises the divergent views. Much time and energy has gone into debating a Code of Conduct which the African Group, supported by the Asian Group, has proposed. European and Latin American delegates as well as delegates from Australia, the US and Canada have expressed deep reservations about the Code and NGOs note that it mainly constrains the work of the Special Procedures. The EU has called for obligations to also be placed on States. On the rationalisation of mandates, little progress has been made. Some States, such as North Korea, continue to call for country-specific mandates to be abolished. This would be a terrible loss for human rights investigation in states such as North Korea and Myanmar.

At the 5<sup>th</sup> HRC Session during which the resolutions will be voted on, the Council will be newly composed; elections for 14 members whose terms have expired will be held on 17 May 2007. Some reshuffling will take place for the African, Asian and European Groups. For the LAC Region, Bolivia and Nicaragua are expected to substitute Argentina and Ecuador, while in Eastern Europe, Belarus and Slovenia will likely replace the Czech Republic and Poland. Several NGOs have started campaigns against Belarus and India on the basis of their human rights records. See eg. [www.forum-asia.org](http://www.forum-asia.org)

Find the lists of members and candidates on the official website: <http://www.un.org/ga/61/elect/hrc/>.

For more information about the above, see the website the International Service for Human Rights ([www.ishr.org](http://www.ishr.org)) or the OHCHR's own website: ([www.ohchr.org](http://www.ohchr.org)).

# Advocacy Update



Global Alliance Against Traffic in Women

May 2007

This month we share with you the outcome of the GAATW action led by European members calling for ratification of the **Council of Europe Convention on Action Against Trafficking** on its second anniversary, 3 May 2007. We also have the results of the recent elections to 14 seats on the Human Rights Council, and have added two new advocacy documents to our website. We wish you interesting reading and, as always, welcome any thoughts or comments you might like to share.

## The GAATW common action to call for ratification of the CoE Convention...

On 3 May 2003 the Committee of Ministers of the Council of Europe adopted the [Convention on Action against Trafficking in Human Beings](#) (CoE Convention). Seven European states (Albania, Austria, Bulgaria, Georgia, Moldova, Romania and Slovakia) have so far both signed and ratified the CoE Convention. For the Convention to enter into force, three further ratifications are needed.

Therefore, for the second anniversary of the CoE Convention, GAATW member organisations in Europe, jointly with national and international partner organisations, organised a common action. The action comprised the sending of letters on 3 May 2007 to governments and/or parliaments in Council of Europe member states as well as to relevant European institutions, to urge them to sign and ratify the Convention. The common action received strong support from NGOs in Europe: around 150 organisations across 10 European countries took part in the action by sending or signing onto letters, as well as sending out press releases (see [statement](#)).

In addition to the letters sent to individual governments, six umbrella organisations sent a joint letter to the President of the [European Commission](#), Mr José Manuel Durão Barroso, asking him to support the rapid entry into force of the CoE Convention and urging him to oversee the European Commission becoming party to the Convention.

The EU institutions and the European Commission, in particular, have given specific attention to the issue of trafficking in human beings and enshrined its prohibition in Article 5<sup>1</sup> of the [Charter of Fundamental Rights of the European Union \(2000\)](#). It has also been very supportive in respect to the CoE Convention, actively engaging in the negotiation phase and encouraging signature and ratification by its member states.

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<sup>1</sup> Article 5 Prohibition of Slavery and Forced Labour: 1) No one shall be held in slavery or servitude; 2) No one shall be required to perform forced or compulsory labour; 3) Trafficking in human beings is prohibited.

Eva Biaudet, the [OSCE Special Representative for Combating Trafficking in Human Beings](#), supported the GAATW common action by also sending a letter to President Barroso. She wrote on behalf of the Alliance against Trafficking in Persons Expert Coordination Team ([AECT](#)).<sup>2</sup> The letter noted that under the [EU Action Plan](#),<sup>3</sup> member states made signing and ratification of the CoE Convention a priority and the European Commission was given responsibility to review ratification status by the end of 2007.

### Strengths and weaknesses of the CoE Convention

The CoE Convention:

- + Is the only legally-binding instrument that contains provisions protecting the human rights of trafficked persons, as well as seeking to tackle organised crime.
- + Enhances the protection afforded by the *UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children*, which most Council of Europe member states have ratified.
- + Establishes standards in areas not covered by the UN Protocol, such as internal trafficking and trafficking not involving organised criminal groups. It also states the principle that victims of the crime of trafficking should not be punished for crimes that they have been compelled to commit.
- + Assists member states to implement their human rights obligations by providing clear policy guidance, for example on identification of trafficking victims and provision of basic assistance even before identification; granting recovery and reflection period for trafficked persons not conditional upon a victim's agreement to cooperate with the authorities; providing appropriate and secure accommodation and psychological and material assistance; and issuing renewable residence permits.
- + Establishes an independent mechanism to monitor implementation and encourage compliance by member states. This mechanism, known as the Group of Experts (the so-called GRETA), will be established no later than one year after the entry into force of the Convention.
- The Convention could go further to ensure protection of the human rights of trafficked persons, for example providing more than just basic medical assistance and requiring that repatriation can occur only when consensual and voluntary.
- GRETA may include NGO opinions in its reports, but is not compelled to do so. The effectiveness of GRETA will depend on the strength of the individual experts and not least on their willingness to regularly consult with NGOs.

Overall the action revealed the widespread commitment at all levels in Europe to increasing protection of the rights of trafficked persons and it was an inspiring reminder about the power of collective voices in raising awareness and creating change. Thank you and congratulations again to all those who took part! We are particularly appreciative of those involved in the months of preparations and discussions. We look forward now to updating you on the progress of the Convention and please do share with us developments at the national level.

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<sup>2</sup> The AECT is a consultative forum established by the OSCE that includes representatives from the OSCE Secretariat, NGOs, UN agencies and other institutions. The forum members share experience and best practices, and coordinate joint advocacy activities across the OSCE region.

<sup>3</sup> EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings (2005), point 1.3.c of the [Table of actions for the EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings](#)

## The Human Rights Council and its election...

The UN General Assembly (GA) held elections for 14 seats on the HRC on 17 May 2007. The newly elected members will take up their seats only after the 5<sup>th</sup> session of the HRC (11-18 June 2007) so that current members will have an opportunity to vote on the institution building decisions that they have been working on during the past 12 months. From the 14 elected members, five have been re-elected while nine newly join the HRC.

Only 15 countries stood as candidates for the 14 seats, which led NGOs to question the transparency, degree of democracy and the possibility of choice in the election process. The seats are allocated on a regional basis and four of the five regional groups agreed on which candidates they would support. This meant that states were being elected not for their human rights records but on the basis of reciprocal voting arrangements within each region. Considering the poor human rights records of newly elected countries such as Angola, Egypt, Qatar and others, worries were indeed grounded. Several NGOs were troubled with the prospect of Belarus joining the Council. Bosnia-Herzegovina submitted a last minute candidacy and won the seat.

In the Asian region, civil society groups argued that incumbent members seeking re-election, namely India, Indonesia and the Philippines, should be held accountable to the pledges that they made in 2006, many of which have not been kept. Prior to the election, they sent open letters to the three governments reminding them of their commitments and urging ratification of key human rights instruments.

The USA decided not to run for election to the HRC. This decision reportedly was due to the reluctance of the US government to engage with the HRC, as well as to doubts that it would garner sufficient support for its election.

The Council membership following the elections:

Africa	Asia	Eastern Europe	LAC	Western Europe and others
13	13	6	8	7
Cameroon Djibouti Gabon Ghana Mali Mauritius Nigeria Senegal Zambia South Africa (re-elected) Angola (new) Egypt (new) Madagascar (new)	Bangladesh China Jordan Japan Malaysia Pakistan Rep. of Korea Sri Lanka Saudi Arabia India (re-elected) Indonesia (re-elected) Philippines (re-elected) Qatar (new)	Azerbaijan Romania Russian Federation Ukraine Slovenia (new) Bosnia Herzegovina (new)	Brazil Cuba Guatemala Mexico Peru Uruguay Nicaragua (new) Bolivia (new)	Canada France Germany Switzerland UK Netherlands (re-elected) Italy (new)

## The Human Rights Council and its institutional mechanisms...

Final decisions on the institution building process of the HRC will follow in the next issue of the Advocacy Update following the 5<sup>th</sup> Session of the HRC in June.

[GAATW's response to the report of the UN Special Rapporteur on Trafficking in Persons, especially women and children...](#)

[The 2007 thematic report of the UN Special Rapporteur](#), Ms Sigma Huda, is devoted to a study on forced marriage in the context of trafficking in persons. GAATW has prepared a response to the report, which welcomes discussion of this issue by the Special Rapporteur, and also provides some additional information on forced marriage from our membership. While the Report has provided a useful overview of the international law on marriage, and the forms that trafficking for forced marriage can take, GAATW is of the opinion that more research into the human rights aspects of forced marriage and trafficking is needed, and asks the Special Rapporteur to provide more options for combating the root causes of trafficking for forced marriage. GAATW also calls on states to take action against all forms of discrimination against women, particularly provisions which discriminate against women based on their marital status. Further, as marriage is often the only possible way to legally enter a foreign country, States need to provide more legal migration channels to women and men.

Read [GAATW's response](#).

The [Goals for States to comply with the UNODC Global Initiative...](#)

GAATW, Save the Children, Amnesty International and Anti-Slavery International have jointly drafted [10 Goals](#) as a framework for action for the Global Initiative to Fight Human Trafficking, launched by the UNODC. The 10 Goals are a submission to the process to develop the 'Vienna Pledge' - the outcome document of the Vienna Conference scheduled for November 2007.

# Advocacy Update



Global Alliance Against Traffic in Women

June 2007

Welcome to the Advocacy Update for June 2007. This issue is a special focus on the 5<sup>th</sup> Session of the Human Rights Council held in Geneva from June 11-18, 2007. The session will be largely remembered as concluding the HRC's institution-building process and thus defining what the basic international mechanisms for the protection and promotion of human rights will be. In between the technical discussions, several special rapporteurs were also scheduled to give presentations on their specific areas of human rights concerns, including the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, especially Women and Children. Two members of the GAATW-IS advocacy team, Eleanor Taylor-Nicholson and Nina Pessina, attended the HRC session and organised a very successful side event while monitoring the happenings of the session. Below is an overview of the side event and the discussions that followed, and a brief outline of the most important of the HRC's institution-building decisions. We hope that you will find this issue useful and interesting! And as always, please do send us any thoughts or questions that you have.

## The GAATW Side Event: "State Accountability for Protection of the Rights of Trafficked Persons"...

The GAATW side event was held over lunchtime on the second day of the session, 12 June 2007. Around 50 people attended including UN staff, NGOs in consultative status with ECOSOC such as Forum Asia, MFA, HRWG, Pax Romana, CATW, EWL and state delegates from Thailand, the Netherlands, Nigeria, Rwanda, Switzerland, Australia and others. The only drawback was that the interesting discussion generated could not continue due to time constraints.



From the left: Obiwulu Agusiobo (NAPTIP), Susanne Seytter (FIZ), Eleanor Taylor-Nicholson (GAATW IS), Marieke van Doorninck (La Strada International) Nina Pessina (GAATW IS).

The aim of the event was to emphasise that trafficking is a human rights issue and, therefore, states have a responsibility for protecting trafficked persons. We invited two GAATW members who work on trafficking in Europe to give us their perspective on how states were fulfilling their obligations. A public prosecutor from Nigeria who had attended the recent GAATW Consultation on Access to Justice in Nigeria presented his analysis of a state actively trying to combat trafficking. The event was opened by Eleanor Taylor-Nicholson, the advocacy coordinator at the GAATW IS, and chaired by Madeleine Rees from the Office of the High Commissioner on Human Rights. This is a summary of the presentations:

### **Eleanor Taylor-Nicholson, GAATW IS**

In her opening remarks, Eleanor explained that GAATW has worked to promote the human rights of trafficked persons for many years. A human rights approach emphasises the centrality of states in combating trafficking and protecting trafficked persons. It is states that are obligated to implement international human rights laws. She added that since institution-building and state accountability is a central theme of this HRC, it is thus an appropriate occasion to hold an event on the accountability of states in a specific area of human rights.

### **Madeleine Rees, Head of Women's Rights and Gender Unit, OHCHR**

Madeleine Rees provided the perspective of the OHCHR on the issue of state accountability. She noted that human trafficking is a complex phenomenon and it is variously viewed as related to migration, criminal justice, victim protection, poverty reduction and more. Since 2000 there has been an international definition of trafficking as set out in the Palermo Protocol - now a widely recognised although imperfect instrument. However, she acknowledged that that the time spent distinguishing trafficking from smuggling was perhaps a mistake - the significant issue of the protection of the human rights of trafficked persons somehow slipped into the background as a result. She pointed out that states are implementing the Palermo Protocol, but it is equally important to look at the whole circle of human trafficking, including all the actors involved in it. Above all, we have to remember that trafficking affects persons not objects. In this sense the assistance to trafficked persons and the respect of their human rights should lie at the heart of all endeavours while stopping impunity for this criminal act.

### **Marieke van Doorninck, La Strada International**

Marieke gave a broad overview of state accountability in Europe in recent years from her perspective of policy adviser in a European network secretariat. She noted that states and intergovernmental organisations have now recognised the tremendous impact of human trafficking and have taken responsibility for combating it. But problems still persist: 1) New treaties and plans are being formulated but old ones are not being implemented and/or monitored. 2) Most government responses address only cross-border trafficking and trafficking of women and girls for sexual exploitation. 3) Trans-national crime and the criminal justice system, rather than human rights, continue to provide the frame for most anti-trafficking initiatives. Consequently, governments see the protection of trafficked persons as secondary to the prosecution of traffickers. La Strada advocates many actions that governments in countries of both origin and destination should implement to fulfil their human rights obligations. Some of these are: implementing existing plans and measuring their impact before developing new ones; giving more attention to internal trafficking and trafficking for all forced labour; and providing trafficked persons with unconditional legal, psychological and financial support, and initiating long-term measures that include compensation, reintegration and safe return. In addition, La Strada emphasises that trafficking can be, to a large extent, prevented if governments take seriously their obligation to protect other human rights of persons such as social and economic rights and have in place labour protections. An equally important responsibility of governments is to provide more legal channels to migrate.

### **Susanne Seytter, Fraueninformationszentrum - FIZ**

Susanne explained what FIZ, a national NGO in Switzerland, finds to be the main obstacles for trafficked persons in Switzerland seeking redress for the human rights violations they have suffered. First, they are not being recognised and identified as trafficked persons. They get arrested, charged and deported to their countries of origin because they are regarded as criminals for having breached immigration and labour laws. Also, Switzerland does not have national standards to access the court system - the laws and systems are different in different cantons. Women who collaborate with the police and press charges against their traffickers are still deported to their country of origin - even against their will - as soon as the process is over. The justice system uses victims of trafficking and sends them home when it no longer needs their services. Under these conditions, few are willing to accept the burden of a criminal

process and the related risk of re-victimisation. That is why FIZ has initiated roundtable meetings with various stakeholders. In the cantons where such meetings are being held, FIZ has noted that both the awareness of the authorities and the treatment of trafficked persons seeking justice have improved considerably. FIZ asks for a national victim protection programme and a residence permit anchored in national legislation, which is not conditional on the willingness of the victim to collaborate with the authorities.

**Obiwulu Emmanuel Agusiobo, prosecutor with the Nigerian *National Agency for the Prohibition of Trafficking in Persons (NAPTIP)***

Mr Agusiobo described how the Government of Nigeria has sought to combat trafficking by establishing a specialised national agency to address human trafficking, NAPTIP, in 2003. NAPTIP has three departments: investigations, prosecution and counselling, the last takes care of the victims including their rehabilitation, vocational training, adequate shelter, medical facilities and re-integration. In Mr Agusiobo's view, having a national agency facilitates access to justice for trafficked persons as all services are centralised. It is mandated to undertake criminal proceedings against traffickers, and is also setting up a trust fund from which to draw compensation for victims of trafficking. The fund will draw upon assets confiscated from the traffickers on arrest, although, as Mr Agusiobo explained, no assets have yet been confiscated to date and additional money is needed. Other challenges are: finding alternative ways to protect the victims when the agency doesn't have the mandate, for example assisting victims to take up civil claims. NAPTIP is also trying to liaise with other lawyers and government agencies and governments of neighbouring countries to set up national agencies to combat trafficking.

After the presentations, the audience addressed questions to the speakers. Questions pertained to the accountability of states to control trafficking in the context of globalisation and free trade markets, the demand and supply side of trafficking and policies to protect sex workers. Ms Jyoti Sanghera, Adviser on Trafficking of the OHCHR, concluded the side event by stating that the preponderance of the criminal justice framework has been detrimental to the human rights framework, which remains very weak in all countries. It is paradoxical to encourage victims of trafficking to speak up against their traffickers without offering them adequate protection. This has resulted in victim protection programmes remaining extremely weak around the world while traffickers have impunity. The criminal justice framework needs the human rights based approach to function effectively.

### GAATW at the 5<sup>th</sup> Session of the Human Rights Council...

The UN Special Rapporteur on Trafficking in Persons, especially in Women and Children, Ms Sigma Huda, was scheduled to present her report at this session (see also the May 2007 issue of the Advocacy Update) but was unable to leave Bangladesh. There was, therefore, no opportunity for GAATW representatives to make an oral intervention on behalf of the Alliance. The mandate of the Special Rapporteur will be scrutinised in November 2007.

To support the work of other human rights organisations, the GAATW representatives signed an oral statement prepared by Asian NGOs for the interactive dialogue with the UN Special Representative of the Secretary-General for Human Rights in Cambodia. The statement questioned the failure of the Cambodian judiciary to protect the human rights and freedoms of the Cambodian people due to the lack of judicial independence and the lack of rule of law.

### The Human Rights Council and its finalised institution-building process...

The Council adopted a [final version of the institution-building text](#) by the HRC President Mr Louis Alphonse de Alba, by 46 votes to one (Canada). Though the institution-building process

was regarded as being complex, it has come to some positive and important conclusions. The presidential text lays out in 46 pages the basic structure for the Council's new institutional machinery, including the Universal Periodic Review (UPR) Mechanism, the Special Procedures, the HRC Advisory Committee and the Complaint Procedures. These mechanisms enable the HRC to have a credible basis for promoting and protecting human rights around the world.

**UPR** - States praised the UPR mechanism as balanced, innovative and a core mechanism of the Council. The UPR Mechanism will monitor the states in terms of compliance with the Charter of the United Nations, the Universal Declaration of Human Rights, all the human rights instruments to which a state is party and the voluntary pledges and commitments made by states. The UPR will begin by reviewing the initial members of the HRC, presumably this year. Consequently, each state will come up for review every 4 years. NGOs will likely be able to play a significant role in all proceedings of the UPR, although technicalities are yet to be decided.

**Special Procedures** - The Council will present at the next HRC Session the "technical and objective requirements for eligible candidates" of Special Procedures mandate-holders; a Consultative Group will subsequently determine the "necessary expertise, experience, skills and other relevant requirements" for each mandate. Thematic mandates will be of three years, re-election is only possible once. Although contained in the provisions, it is still unclear what role NGOs will be able to play, as it will be up to the OHCHR to circulate the conditions of participation in the selection process.

**New President of the Council** - Ambassador Doru Romulus Costea (Romania) was elected as the new President of the Council. He replaces President de Alba (Mexico). Mr Costea thanked the outgoing president, noting the high standard he has set in his position as president during the HRC's transition year. President Costea now faces the challenges of the implementation phase. The HRC met for the first time with newly-elected members on 19 June 2007. Also read the official [press release](#) from the OHCHR.

The 6<sup>th</sup> Session of the HRC will take place from 10-28 September 2007.

# Advocacy Update



Global Alliance Against Traffic in Women

July 2007

This month we bring you a special report by Suzanne Hoff<sup>1</sup> who represented GAATW at the Civil Society Day (CSD) on 9 July 2007 in Brussels, organised prior to the Global Forum for Migration and Development (GFMD) held on 10-11 July 2007. At the CSD, 200 civil society organisations were able to present their views on migration and development to the GFMD organisers. Following the CSD (and parallel to the GFMD), migrants' rights groups held a Global Community Forum on Migration, Development and Human Rights, which Suzanne was also able to attend.

Suzanne's participation furthers GAATW's engagement with the migration and development debate which has gained momentum since the 2006 "Report of the Secretary-General on International Migration and Development" and the subsequent "UN High Level Dialogue on Migration and Development" in New York. Representatives from GAATW-IS as well as GAATW member organisations were present at the High Level Dialogue and to us the HLD as well as the GFMD suggest some worrisome trends. While governments are becoming more coordinated in their efforts to 'manage' migration and migrant labour, human rights, civil society and migrants themselves are almost completely excluded from substantive discussions. Rather than considering the experiences and wellbeing of migrants themselves, the debate centres on maximising the economic returns of migrant labour for both sending and destination countries. Given the linkages between migration and trafficking, this discourse is one that anti-trafficking organisations should follow and contribute to in coming years. But, as Suzanne mentions below, we must give serious thought to how we can do this effectively and not become party to the further control of people's movement and self-determination.

We hope you find this report valuable in your work, and as usual, we would love to hear what you think on this topic.

Warm wishes,  
The GAATW Secretariat

## The [Global Forum on Migration](#), report by Suzanne Hoff

Conceived as an informal, non-binding, multilateral and state-led process, the GFMD has been planned as an annual event open to all UN Member States (although the UN is not involved in the organisation of the Forum).<sup>2</sup> The GFMD is intended to add value to the

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<sup>1</sup> Suzanne is the International Coordinator of La Strada International (LSI), a network of nine anti-trafficking NGOs in Europe, all of whom are also GAATW members. LSI, based in Amsterdam, acts as the secretariat as well as the main advocacy body of the La Strada network. Suzanne was asked to represent GAATW because of her proximity to the meeting and also her interest and experience in international advocacy.

<sup>2</sup> The High Level Dialogue in September 2006 was an initiative of the United Nations Secretary-General Kofi Annan and was organised by the General Assembly. However, states made clear in 2006 that although they would like to continue the conversation on migration and development, they do not want this to be under the auspices of the United Nations (and therefore not subject to United Nations human rights conventions and to avoid UN standard setting becoming part of the meetings' goals.)

current debate on international migration and development by fostering international cooperation, enhancing inter-state dialogue and discussing and promoting practical and innovative policy ideas on the migration and development nexus. The GFMD describes its aims as follows:

*Through a participatory approach and sustained dialogue between developing and developed countries, the GFMD seeks to arrive at common and evidence-based understandings on those areas where migration policies have the greatest potential to contribute to development, where development offers opportunities for people that, otherwise, migrate by necessity and where development policies take greater account of migration and its potential benefits for development, without migration becoming a substitute for development.*

This GFMD in Brussels, organised by the Belgian Government, was the first of such forums and was attended by over 700 representatives of 55 UN member states. The next GFMD is planned for Manila in 2008.

### Civil society day

Because the GFMD is open only to governments, the Belgian government, in cooperation with the King Baudouin Foundation (KBF), organised on 9 July a 'Civil Society Day' (CSD) for non-government representatives. This day was for civil society organisations to "discuss relevant issues and to offer organized input to the following governmental discussions" on



10-11 July. This input was offered by way of a report drafted by the KBF and presented to the GFMD by 12 civil society representatives on 10 July. Two hundred civil society representatives from around the world attended the CSD, selected by the KBF and an NGO steering committee. The

participants were diverse, ranging from development and human rights NGOs and networks, to private sector and money-transfer associations, unions, faith-based and diaspora organisations, and independent researchers. Apart from the limited engagement offered by the CSD, NGOs and others had no opportunity for meetings with GFMD delegates or distribution of material. Other GAATW partners were in Brussels too, including the Solidarity for Asian People's Advocacy (SAPA) migrant and labour working group,<sup>3</sup> and the United Front for Domestic Workers Rights,<sup>4</sup> represented by Cynthia Abdon-Tellez of APWLD.

The agenda of the CSD largely mirrored the government agenda for the GFMD. Three themes framed the debates, which took place in eight sessions:

- I. Human capital development and labour mobility: maximising opportunities and minimising risks;
- II. Remittances and other Diaspora resources: increasing their net volume and development value; and
- III. Enhancing Institutional and Policy Coherence and Promoting Partnerships.

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<sup>3</sup> The SAPA-ML group was created under the framework of SAPA in 2007 to bring Asian NGOs working on migrant rights and trafficking together with international labour organisations for advocacy. Migrant Forum in Asia chairs the group and GAATW is a founding member. Previously (without the unions) the group was known as the Asian Alliance on Migration, Development and Human Rights - an alliance created in 2006 in preparation for the High Level Dialogue on Migration and Development in New York.

<sup>4</sup> This group, formed in May of this year, is a network of NGOs in Southeast Asia that lobbies for domestic workers rights, led by CARAM and APWLD.

I attended two workshop sessions—“Temporary labour migration as a contribution to development: low skilled migration and addressing irregular migration” and “The value of the migration and development nexus and migration out of choice versus migration out of necessity” - as well as the plenary meetings.

Each workshop was introduced by an expert who also presented a background paper that he or she had drafted. Discussions followed and were concluded with a set of recommendations, some of which had been prepared beforehand. All recommendations were presented in the final plenary session and then included in the final report for presentation to the GFMD (see link below).

### Summary of workshop discussions, recommendations & report

The following is a summary of some of the discussions and recommendations. Note that these are not recommendations made by me, but were from the group as a whole.

#### Labour Mobility

The main recommendations on the mobility of labour called for governments to allow flexibility in visas and residential status so that migrants can return periodically and contribute to home country development. Other recommendations were:

- Ensure that decent working and living conditions prevail in countries of origin so that workers are not forced to migrate.
- A code of ethics for embassy personnel who employ migrant workers.
- Workers informed about their rights, for example through pre-departure and post-arrival training.
- Recruitment agencies and their sub-contractors to be regulated.
- Recognition of the right of all workers to organise, including undocumented workers and domestic workers.
- “Portable justice” -workers who have returned home must still be able to enforce their labour rights in the host country.

#### Circular Migration

It was said that visa policies should be more flexible to include multi-year and multi-entry visas and that admissions and stays should be linked to only one employer. Immigration policies should neither inhibit circulation nor lead to counterproductive regulations, and should not undermine migrants’ rights. Destination countries should have a mechanism by which some temporary migrants can access permanent residency and eventually citizenship.

#### Remittances and Diaspora Resources

Discussion of remittances focused on increasing their development value by reducing transfer costs, increasing transfer options and possibilities for targeting education and health services. Another workshop focussed on strategies for building and/or strengthening diaspora and migrant organisations’ capacity for development which mainly emphasised involving diaspora groups in development funding and programming, rather than “merely relying on intermediary NGOs” to ensure their participation, and increasing funding for migration and development initiatives, including for diasporas.

#### Enhancing Institutional and Policy Coherence and Promoting

Enhancing policy coherence and strengthening coordination at the global level was raised in most workshops and in the plenary as well. Participants’ comments included:

- The way forward is to see development as more than economic growth and to include “non-economic, less-measurable factors such as increased recognition and respect for human rights and well-being, integration and social cohesion, stability, democracy, security, the environment and future prospects. The total human development of migrant workers and members of their families should be at the core of the migration and development discourse.”
- Policy-making should be more holistic, address root causes and consider other patterns of mass migration such as from climate change/conflict and their links with irregular migration.

- Improving coordination between governments and civil society particularly in countries where democratic non-governmental organisations have little space to operate. Governments and civil society should cooperate to protect migrants' rights where economic interests might be negatively affected.
- It was stressed repeatedly that governments must ratify and fully implement international conventions such as the [International Convention on the Rights of all Migrant Workers and the Members of Their Families](#) (1990), core [ILO Conventions](#), the [Palermo Protocol](#) and others. Full implementation will require monitoring and training at the local level.

#### Recommendations for the next GFMD

- Governments should consult with all stakeholders at national, regional and international levels leading up to the 2008 GFMD in Manila.
- More direct interaction and dialogue between the states, migrants and civil society during the GFMD. The civil society gathering should last several days to allow this.
- The UN should provide more solid or formal commitments to convene the GFMD.

#### Reflections on the CSD

Trafficking in human beings was not specifically discussed at the CSD but many recommendations and opinions expressed in debates on migration/migrant rights have been touched on in the anti-trafficking debate as well. The discussions and the recommendations reflected, in general, the voice of all civil society organisations present, but some critical voices were heard and I share some of the concerns here.

In general, it is evident that the human rights approach to migration and anti-trafficking is still being undermined and that many of the discussions and recommendations were initiated partly as an attempt to actually *reduce* migration. The question to be asked is whether civil society should be hesitant to join discussions on 'how to tackle irregular migration'. Regulation of labour migration by governments might only lead to more repressive measures being taken against irregular migrants and those groups that are left out.

Specifically:

- The recommendations on labour mobility seemed mainly designed for 'highly-skilled' workers, whereas all migrant workers should be allowed this right.
- As for: "governments should ensure that decent working and living conditions prevail in countries of origin so that workers truly have the option to migrate or not to migrate", it must be emphasised that governments should also ensure decent working and living conditions in countries of destination, irrespective of whether the migrant workers are regular or not.
- Re: "Linking visas and admission to stay to only one employer", we should rather lobby for visas independent of employers as this system puts the worker in a vulnerable position.
- Too big a "focus on migrants as contributors to the socio-economic and cultural well-being of origin and destination societies", might excuse governments from providing more development aid.
- The recommendation on "regulation of recruitment agencies" should not lead to limiting the possibilities of persons to freely travel, or put them in a situation where they feel forced to use illegal migration channels.
- Similarly, in relation to "circular migration and the need for more flexibility of visa and temporary residence permits", clear questions arise, and were actually asked, on the setting of terms and whether indeed migrants would be forced to return if they do not leave voluntarily after their visa expires.

Civil society should think further about what we actually want to achieve and look closely at the possible negative effects of such policies. We must become more organised and coordinated to be ahead of government policy and look critically not only at governments, but also at ourselves as monitors and opposition to potentially harmful policies. This became clear at the CSD, and also at the civil society parallel workshops in the next few days.

## Global Community Dialogue on Migration, Development and Human Rights

The CSD on 9 July was followed by a two-day Global Community Dialogue on Migration, Development and Human Rights (GCD on MDHR) parallel to the GFMD organised by a group of migrant rights organisations.<sup>5</sup> The GCD sought “to reintroduce the voice and concrete contribution of migrants, non-government organisations and civil society in the global debate”.

The Community Dialogue on the human rights of migrants was organised through workshops and plenary sessions which were attended by various other (migrant and civil society) organisations. Many, but not all, had also been selected to attend the Civil Society Day attached to the GFMD. Migrant organisations based in Brussels and other Western European countries, were overrepresented, ironically because the Belgian Government refused non-EU citizens visas to attend at all or only to attend the CSD, not stay for the next two days.

The organisers made an effort to link the GFMD and the CSD to the Community Dialogue; they provided space for feedback on the CSD and organised their workshops around similar topics. On the second day, a representative of Catholic Refugee Services (one of the 12 NGOs that were selected to present the Final Report) reported back on the presentation of the recommendations to the GFMD.

As for giving feedback on the CSD, participants stressed the need for further inclusion of civil society in the migration debate and also criticised the selection of NGOs to participate in the CSD as some felt that regions were unequally represented. They also debated the selection of the 12 GFMD observers and asked generally whether civil society itself should have led the organisation of the CSD.

A second plenary presented the state of the human rights of migrants globally, which showed clearly how many migrant workers' rights are violated each day. Some irregular migrants shared touching personal stories, and human right activists highlighted cases of severe violations of human rights of migrant workers that they had come across in their work.

The afternoon workshops were on specific issues pertaining to migrant workers, including domestic work, temporary labour migration programmes and vulnerability to abuse. Participants also discussed international trade and migration policies, the issue of detentions and deportations of irregular migrants, and how NGOs already address migration and development. Apart from these discussions, more practical workshops were held focusing on European funding programmes (with guest speakers from the European Commission), advocacy, campaigning and activities for change, and sharing best practices on campaigning for universal ratification and effective implementation for the UN Migrant Workers Convention.

On the following day, 11 July, participants reported back from workshops, and then followed discussions on recommendations and next steps to prepare for the 2008 Manila GFMD. The organisers of the event promised to send a report with all recommendations.

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<sup>5</sup> The GCD was an initiative of Migrants Rights International (MRI), Platform for International Cooperation on Undocumented Migrants (PICUM), Migrant Forum in Asia (MFA), and the National Network for Immigrant and Refugee Rights (NNIRR), and planned together with December 18 and the International Catholic Migration Commission (ICMC).

## Advocacy Update



Global Alliance Against Traffic in Women

August 2007

The Advocacy Update this month focuses on advocacy actions, new spaces and debates in Southeast Asia. In recent months, discussion in the region about human rights and particularly the rights of migrant workers has reached a new level. On the one hand migrants are becoming scapegoats for popular discontent in receiving countries such as Thailand and Malaysia, and here we highlight efforts to challenge the restrictions certain provincial governments in Thailand have placed on migrant workers.

On the other hand we have some cause for cautious hope. The Governments of the Association of South East Asian Nations (ASEAN) have finally announced that it will include a regional human rights 'body' in the new ASEAN Charter. Asian NGOs are becoming more organised and coordinated around the Human Rights Council (HRC) and regional human rights events, for example through a recent Consultation on the HRC organised by Forum Asia. With this Advocacy Update we are suggesting some spaces for action and as always we are keen to hear your thoughts on it!

Warm wishes from Bangkok,

the GAATW Secretariat

### The Provincial Decrees in Thailand...

Migrant rights activists in Thailand are busy at present challenging a series of Provincial Decrees which violate the rights of migrant workers. Migrants from Burma, Cambodia and Laos number in their thousands in Thailand and are an integral but invisible part of the Thai economy. However, they are treated with suspicion and resentment by many and trafficking and exploitation of migrant workers are all too frequent occurrences here.<sup>1</sup> GAATW has been supporting the work of its partner, the Action Network For Migrants (ANM), which is coordinating lobbying against discriminatory laws.

#### Background

In December 2006, the Provincial Government of Phuket, a major tourist region, issued a "Decree on Alien Workers", imposing measures such as:

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<sup>1</sup> See Pearson, Punpuing and Jampaklay, *The Mekong Challenge: Underpaid, Overworked and Overlooked: the Reality of Young Migrant Workers in Thailand*, International Labor Organisation, 2006.

- prohibiting 'alien workers' from leaving their place of residence after 8pm unless they are under the control of the employer
- prohibiting alien workers from riding a motorcycle or driving a car
- prohibiting migrant workers from using a mobile phone unless the employer registers the names and sim card number with the local administration
- groups of more than five 'alien workers' are prohibited from gathering.

Migrants employed in industries like construction, manufacturing and fisheries are particularly affected by this Decree - many of whom rely on motorcycles for transport and who need phones to communicate with friends and family at home. Sadly, four more provincial governments<sup>2</sup> made similar decrees during 2007 and the central Government announced recently that it would introduce such rules in all 22 Provinces of troubled southern Thailand.

Provincial Governors have claimed that the decrees are necessary to protect tourism and industry from troublemaking migrants. One administration even argued that it would stop trafficking because traffickers would not be able to make deals over mobile phones. However, such measures, as well as being clearly racist, also expose rather than protect affected individuals to greater abuse, exploitation and slavery-like conditions by preventing them from leaving their place of employment without risk of arrest, or calling for help.

### **Actions**

The members ANM have been lobbying against the decrees for some time. The National Human Rights Commission of Thailand even carried out an investigation and notified the Governors that the decrees were violating human rights and recommended their withdrawal, but they have been ignored.

ANM has designated August 30 a Day Against Provincial Decrees. On that day, ANM will present a letter to the government demanding the withdrawal of the Decrees and a Hong Kong-based partner of ANM will rally in front of the Thai Consulate in solidarity with Thai activists. A group of human rights university students have also written, with support from the GAATW IS, a petition against the Decrees.

Please click on the following link to sign the petition created by the students group: [http://www.ipetitions.com/petition/support\\_thai\\_migrant\\_workers](http://www.ipetitions.com/petition/support_thai_migrant_workers).

For more information on the Provincial Decrees, or to share with us any action you would like to take on August 30, please contact [action\\_migrants@yahoo.com](mailto:action_migrants@yahoo.com) or [aneega@gaatw.org](mailto:aneega@gaatw.org)

### **ASEAN taking on human rights...**

On July 30 2007 Foreign Ministers of the ten ASEAN countries announced their decision to establish a human rights 'body' (the words 'commission' and 'mechanism' were felt to be too controversial) for the region. The decision was made over strong resistance from Myanmar (Burma) and reluctance from Laos, Cambodia, and Vietnam. Human rights

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<sup>2</sup> Surathani, Ranong, Rayang and Pangnga.

activists in the region are pleased but still cautious, given that no timeframe or details of the 'body' have been given.

Asia is now the only region in the world which does not have a regional human rights mechanism. Instead, ASEAN countries have focused on economic growth with Fundamental Principles of "mutual respect for the ... sovereignty ... of all nations" " non-interference in the internal affairs of one another" blocking efforts to protect human rights.

This announcement thus comes after 14 years of negotiation and, even now, it is unlikely that unanimity will be reached easily on technical matters such as which rights the body will consider. It is possible that the rights of women and children will be an initial focus, as the Child Rights Convention and the Convention on the Elimination of Discrimination Against Women are the only conventions signed by all ASEAN members. Given that ASEAN already has a Declaration on Trafficking and the Rights of Migrant Workers (both unenforceable and subject to 'national laws'), trafficking could also be an issue for consideration by the body.

For a human rights body to be functional there is a need of a body of independent experts, who are able to investigate in human rights violations as well as an independent body - such as a court - to evaluate reports on human rights violations and to issue legally binding decisions to the states concerned. Without such preconditions, ASEAN endeavours to protect human rights will remain only words.

## The 2<sup>nd</sup> Asian Regional Consultation on the HRC

An Asian Regional Consultation organised by Forum-Asia brought together NGOs from nine countries to discuss the finalized institution-building of the UN Human Rights Council (HRC). Participants agreed on strategies to support each other in their respective advocacy at the HRC. The aim of the Consultation was also to develop common strategies around the Universal Periodic Review (UPR), to follow-up on the Framework on Regional Cooperation in Bali, and to plan for the Durban Review Conference.

### HRC institution-building assessment

For NGOs in the Asia-Pacific region the HRC constitutes a unique venue to address human rights issues, so hopes for the HRC being more efficient than the previous Commission were very high. However, many participants were deflated by the achievements of the HRC in its first year as politics and bloc-voting still continue to dominate genuine efforts to promote and protect human rights. Nevertheless, it is still too early to make a final conclusion, as the effectiveness of new mechanisms such as the UPR and the new Special Procedures system are yet to be evaluated. Representatives from troubled countries such as Sri Lanka are hoping that, now the institution building is complete, the HRC will also have more time to address substantive human rights concerns.

The HRC needs to be made more tangible. If NGOs want to realise the endeavours of the HRC not only in Geneva but above all in their own countries, then NGOs must be proactive, engaged and coordinated. NGOs will have space to lobby during the UPR and the appointment of Special Rapporteurs, however for many smaller NGOs this work is difficult because of the time, human and financial resources required. GAATW will

support the work of other NGOs to disseminate government pledges and in their future UPR country reports and welcomes any requests for more detailed information from our contacts.

### **Universal Periodic Review**

All UPRs will be conducted in an annual one week period, and the first session will be in February 2008. Three Asian countries are scheduled for review: **India**, **Philippines** and **Indonesia**. The review will be based on three documents:

- a report by the Government
- a compilation of UN held reports (eg. by Special Rapporteurs)
- a compilation of other submissions (eg. by NGOs)

Forum Asia has committed to support NGOs based in these countries to contribute to the government document and to also draft shadow reports for submission. After this session we will have more insight into how powerful this mechanism can be.

### **Other news...**

#### **The Bali Workshop**

On July 10-12 the 14<sup>th</sup> Annual Workshop of the Framework on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region took place in Bali, Indonesia. This workshop is the only venue in the Asia-Pacific at which all governments attend to discuss human rights and technical cooperation on national human rights action plans, national human rights commissions, human rights education and social and cultural rights. UN High Commissioner for Human Rights, Ms. Louise Harbour, chaired the event which this year focused on human rights and extreme poverty. The Office of the High Commissioner is requested to produce for the next meeting a summary of recommendations and a list of resources from Member States and UN agencies to tackle human trafficking and extreme poverty.

#### **The Durban Review Process**

A Review of the "Durban Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance" is scheduled for 2009. Many GAATW members might remember the Durban Conference held in September 2001. The Conference recognized that racism still influenced events in many parts of the world but it also ended in controversy when Israel and the USA walked out over suggestions of Israeli racism against Palestinians. Just three days after the Conference ended, the world watched the imploding towers of the World Trade Centre in New York.

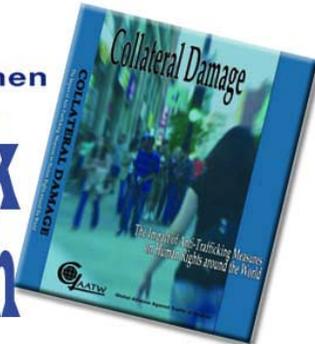
Discrimination and racism have gained new dimensions since September 11, 2001. The Durban Declaration and its Programme of Action need to be revised and implementation assessed. The Declaration included provisions condemning slavery-like practices and calling for the elimination of all forms of trafficking, and trafficking victims are identified as victims of racism. It also requests all States to combat manifestations of rejection of migrants and to set up monitoring and protection mechanisms for migrants.

The UN General Assembly convened a Durban Review Conference 8 years after the World Conference for this purpose, pushed mainly by developing country governments. The HRC will act as Preparatory Committee for the Review Conferences and planning meetings will be held in Geneva over the next 18 months.



Global Alliance Against Traffic in Women

Book  
Launch



This month special edition is dedicated to sharing with you the new publication of the Global Alliance Against Traffic in Women (GAATW):

*Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights Around the World*

According to the United Nations High Commissioner for Human Rights anti-trafficking measures “shall not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked and of migrants, internally displaced persons, refugees and asylum seekers”<sup>1</sup>. However, human rights defenders have become more and more concerned that many strategies designed to fight trafficking have proven counter-productive for the very people they were intended to benefit.

To investigate this more closely, GAATW commissioned eight human rights and trafficking experts to each look at the policies and practices instituted in one country, and respond to the questions: Have anti-trafficking measures provided scope for a greater number of victims to exercise their human rights more fully in obtaining access to justice and protection from trafficking? Or have prevention initiatives instead had a negative impact on such victims and/or others?

The eight countries considered were Australia; Bosnia and Herzegovina; Brazil; India; Nigeria; Thailand; the United Kingdom; and the United States of America. Together, these case studies point to the conclusion that, while an enormous amount has been done to combat trafficking, anti-trafficking policies and other related policies have in fact harmed the very people they were intended to protect, as well as migrants and sex workers. The reasons for this range from a lack of evidence-based policy-making and a lack of consultation with those that will be affected by the policies, to clearly pushing other agendas, such as stopping migration or suppressing prostitution.

Mike Dottridge, editor of the report and member of the GAATW Working Group on Research, wrote the introductory chapter, which contains 10 broad recommendations including:

- Making assistance conditional on cooperation with law enforcement (a practice found in all eight countries that were examined) is incompatible with a human rights approach and needs to be ended without delay. Further, immediate repeal of legislation allowing the detention of trafficked people is needed.
- The means of identifying of trafficked persons must be improved, more comprehensive assistance be made available, and restrictions on trafficked persons applying for asylum be removed and, that individual risk assessments be carried out routinely before a trafficked person is deported.

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<sup>1</sup> Office of the High Commissioner for Human Rights - HCHR (2002). Recommended Principles and Guidelines on Human Rights and Human Trafficking.

- National human rights institutions have an important role to play in collecting information about the impact of anti-trafficking measures in their country and to suggest policy changes.
- Law enforcement officials should put greater focus on detecting cases of forced labour and slavery-like practices, and on prosecuting abusive employers rather than the 'middlemen' who recruit people for the purpose of trafficking.
- Governments should abolish obstacles inhibiting migrant workers from exercising their rights to freedom of association and from joining or forming trade unions.

For human rights advocates who work on trafficking, this publication is exciting as it gives us evidence with which to approach governments and to give us direction and strategy in what we ask for. In particular, it impresses upon us that the rights and interests of affected people need to be at the very centre of any policy and practice intended to improve their human rights. All policies must be based on objective evidence and reviewed regularly by talking to those affected by the policies.

We sincerely hope that the report will contribute to the work of us all and that the reading will offer food for thought.

## The summaries of the eight country-chapters...

### AUSTRALIA, by Elaine Pearson

Despite commendable efforts on the part of the Australian Government to deal with human trafficking, the focus has been predominantly on combating trafficking into the sex industry. Negligible attempts have been made at detecting trafficked workers in industries such as construction, agriculture, hospitality and manufacturing. Various cases were identified in these sectors of workers working in highly exploitative conditions. Some such workers had entered legally under a '457 Visa' for semi-skilled employment. While the '457 Visa' is meant to secure some level of protection for migrant workers, in fact, it can make it difficult for workers to leave exploitative work conditions, since the visa ties workers closely to their employers. There is a realm of exploitation of migrants on these visas and cases of severe exploitation on the grounds of 'debt bondage' - recognised as slavery under Australian Criminal Code - have been reported.

The Government offers a comprehensive schedule of support services and visa protection opportunities to those who are able and willing to assist the criminal justice process. However, temporary visas for trafficked persons are not made available until after the outcome of trafficking trials, thus causing more anxiety and stress for victims in the short-term. Where women and men who have been trafficked into Australia are reluctant or unable to cooperate, they are repatriated to their home countries, in some cases, with the requirement that they bear the expenses of their detention and removal on their own. Privatisation of support services to victims of trafficking has marginalised NGOs from victim assistance, policy making and implementation.

### BOSNIA AND HERZEGOVINA, by Barbara Limanowska

To date, reported cases of human trafficking in Bosnia and Herzegovina have been concentrated in the sex industry. However, there is some evidence that human trafficking happens for the purpose of labour exploitation in other sectors of the informal economy too. The chapter also sheds light on the problems, which members of the Roma community face.

The anti-trafficking scenario in Bosnia and Herzegovina is shaped by a series of Memorandums of Understanding (MoUs) between the Ministry of Security, IOM and five national NGOs, setting out the rights and obligations for cooperation in providing assistance to trafficked persons. The agreements have proven to seriously impact the human rights of trafficked persons and hinder

participation of NGOs in advocating for more suitable structures for the protection and security of trafficked persons. For instance, as a consequence of the conflation of trafficking with prostitution linked to the idea that prostitution is considered an offence against public order and punishable with prison sentences, trafficked persons have, under the disguise of 'their own security', been offered a 'choice' of either being charged with prostitution or agree on being held in closed NGO shelters. The agreements, furthermore, apply only to foreign women trafficked into the country but do not include protective measures for returnees or persons trafficked within Bosnia and Herzegovina.

Women trafficked into Bosnia and Herzegovina returning to their countries of origin through organised repatriation have reported difficulties ranging from stigmatisation, criminalisation and re-victimisation as well as lack of protection and long-term support. The chapter author calls for better coordination between countries of origin and destination, for an accessible procedure to apply for refugee status on the grounds of humanitarian law as well as for Witness Protection Programs with relocations to third countries.

### **BRAZIL, by Frans Nederstigt & Luciana Campello R. Almeida**

Awareness of human trafficking in Brazil is generally low. Victims of trafficking and slavery-like practices do not recognise themselves as such since many forms of severe exploitation - in a country with dramatic levels of social inequality and lack of work opportunities - are rampant. Despite awareness raising campaigns, human trafficking is limited to an international phenomenon happening solely for the purpose of prostitution, failing to make a difference between the voluntary or forced nature of it. They also do not reflect the reality of persons who are trafficked at the hands of family members or friends. Cases of internal trafficking for labour in soy and sugar cane plantations, for international drug traffic as well as into conflict situations in neighbouring Colombia still go largely unnoticed. The authors emphasise that as long as root causes such as poverty, lack of job opportunities and discrimination are not tackled, any anti-trafficking initiative will merely have a palliative effect. Nevertheless the Brazilian context also offers interesting future possibilities. Human trafficking is now on the political agenda with the promulgation of a *National Policy to Combat Human Trafficking*.

Concerns over lack of communication and coordination among different agencies in Brazil are raised. While in single cases they are able to offer some protection to victims of trafficking, they fail when protection requires some coordination and when it needs to be extended to family members.

The chapter further explores the impact of anti-trafficking measures on Brazilian migrant women. Research carried out at the international airport of Sao Paulo indicates that numerous women have been refused entry to European countries and are forcibly repatriated on the basis of suspected involvement in the sex industry. This points to an instrumentalisation of anti-trafficking measures to pursue restrictive immigration policies and an abolitionist agenda towards prostitution. This does not only have detrimental impact on the safety and security of the women concerned but it ignores the fact that trafficked women and their traffickers often travel together.

### **INDIA, by Ratna Kapur**

Anti-trafficking initiatives in India have emerged from debates surrounding the legality or illegality of prostitution and, as such, they display profound misunderstanding of the phenomenon of human trafficking. The conflation of trafficking with prostitution has led to the neglect of trafficked persons in other sites of exploitation as well as of men and boys. Women and minor girls have been treated equally, that has served to infantilise adult women. Anti-trafficking initiatives have had severe repercussions on the life of sex workers, women and children. Government policy addresses only internal trafficking, ignoring people from Bangladesh and Nepal who are trafficked into India as well as Indians trafficked to the Middle East for the purposes of factory work, performing in circuses, camel jockeying, begging, domestic labour, adoption, organ removal and marriage.

Sex workers have suffered enormous harm under anti-trafficking measures. Police officers have been more concerned with arresting and charging prostitutes (ignoring the difference between the voluntary or forced nature of their activities) rather than traffickers and have collaborated with traffickers, who 'pay' bails for the arrested prostitutes, causing them to fall into deeper enslavement. Children living in premises where prostitution is suspected are forcibly removed from parental care. Rescued prostitutes, even if placed in 'protective homes', are detained and forced to submit to medical examinations against their will while facing appalling living conditions.

In the name of protecting women from trafficking, the Indian Government has imposed restrictions on the emigration of women, particularly young unskilled or semi-skilled women. Such measures have served to push these women to migrate through clandestine means. The chapter provides evidence of how the security of the state rather than the security of the migrant has been foregrounded and the impact of this on migrants living in India.

### **NIGERIA, by Victoria Ijeoma Nwogu**

Nigeria has taken a leading role in Sub-Saharan Africa for anti-trafficking initiatives. As one of the first countries to ratify the UN Trafficking Protocol, Nigeria has, in fact, adopted it beyond the requirements by including internal trafficking and stipulating severe penalties for offenders into national policy. In 2003 the Government enacted the *Trafficking in Persons Prohibition Law Enforcement and Administration Act* and in 2004 it set up a respective Agency<sup>2</sup> comprising among other departments an investigation unit and a legal department responsible for the prosecution of all trafficking cases in Nigeria.

Despite Nigeria's commendable initiatives, little improvement has been made in securing the human rights of affected persons. The Act is mainly oriented towards the prosecution of traffickers rather than victim protection, resulting in a low number of convictions. No effective protection is offered to trafficked persons and their families and trials are still held in public, seriously hampering a person's willingness to testify against their traffickers. To date, no restitution or other forms of compensation have been granted to the victims. Further, trafficked women can - ostensibly for their own security - be detained in shelters, with limited freedom of movement.

The legal conflation of trafficking with forced prostitution has led to the neglect of trafficking for other forms of labour as well as to the stigmatisation of women found to have been trafficked for sexual purposes. Measures aimed at protecting children from trafficking have resulted in severe restrictions on their freedom of movement. Further preventive measures have failed to financially empower target groups. Such practices follow from a short-sightedness towards the increasing poverty in Nigeria, which drives women men and children to leave their homes in the hope of better opportunities. The chapter also draws attention to the ineffective regulation of recruitment agencies, that operate on their own terms - often involving abuse, exploitation and trafficking.

### **THAILAND, by Jackie Pollock**

Thailand and the neighbouring countries have initiated many interventions, policies, laws and MoUs to combat trafficking. However, most have served to prosecute traffickers and repatriate undocumented migrant workers. Little or no progress has been achieved in the protection of the rights of trafficked persons or the regulation of safe working conditions. The lack of recruitment services for migrants from Cambodia, Lao PRD and Burma as well as inefficient recruitment services for Thai migrants have created dependency on an unmonitored network of brokers that bears the potential threat of abuse and exploitation.

This chapter points at some of the legal and structural deficiencies. For victims of trafficking and serious labour exploitation, protective measures, that entitle them to long-term rights and residence permits in Thailand, are not in force. Sentences against traffickers and exploitative

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<sup>2</sup> The Nigerian Agency to Prohibit Trafficking in Persons - NAPTIP.

employers are dismally low and inevitably send the message that exploitation of migrant workers is a minor crime. While the Ministry of Social Development and Human Security has, in recent years, made efforts to collaborate with NGOs in destination countries in Europe, there have been hardly any forms of collaboration in other regions. The chapter offers several examples of Thai women trafficked to other Asian countries as well to the Middle East where the Thai Government has proven incapable of providing them with any kind of support.

The chapter elucidates how human trafficking intrinsically happens where a weak labour framework is in place. It gives the example of the Thai Labour Protection Act which, despite offering protection to migrant workers regardless of their residence status, does not cover the sectors of the informal industries where most migrant workers are employed, such as agriculture, fishery industry and domestic work.

#### **UNITED KINGDOM (UK), by Klara Skrivankova**

While human trafficking has gained priority on the UK's political agenda, gaps persist in policies concerning protection of the human rights of trafficked persons. A strong focus on immigration offences has deviated the attention from human rights violations against migrants in the UK. The chapter provides a series of examples demonstrating how the conflation of anti-trafficking measures with restrictive immigration policies has brought about an inconsistent system for tackling human trafficking.

To date, the UK regards human trafficking as a problem of organised illegal immigration rather than as a human rights issue. On the one hand, the UK was reluctant to submit to European legislation aimed at combating trafficking by making better protection available to trafficked persons. The UK justified its reluctance on the grounds that immigrants might misuse provisions for victims of trafficking to extend their stay in the UK. On the other hand, the UK has financially supported activities and programmes to combat trafficking in countries of origin without matching this with efforts to stop labour exploitation in the UK itself and to raise awareness about the demand for cheap labour at the national level. Such an approach has led to the criminalisation of most trafficked persons who are punished for being undocumented, detained and forcibly deported without access to protection measures to which they are entitled under international law.

While the current anti-trafficking legal framework foresees measures to prosecute and punish traffickers, protection to trafficked persons is given on a case-by-case basis. This approach has failed to contribute to anti-trafficking legislation complying with human rights standards. Evidence shows that where trafficked persons have been treated as undocumented migrants, detained and subjected to arbitrary deportation, law enforcement officials have failed to recognise that these people may reside in the country with legal status or may already be UK citizens. A lot now depends on the performance of the new police anti-trafficking units set up at the end of 2006.

#### **UNITED STATES OF AMERICA (US), by Jayne Huckerby**

The indivisibility of prostitution and trafficking is reflected in all US anti-trafficking measures. This understanding, accompanied by a strong moralist approach towards prostitution, has been detrimental to the human rights of women, and in particular sex workers, both in and outside the US. While the US devotes extensive financial resources to anti-trafficking efforts, the benefit of these resources is severely undermined by its legal position not to fund projects or groups that promote, support or advocate the legalisation or practice of prostitution.

Cases of successful prosecution of traffickers in the US focus disproportionately on sex trafficking and remain disproportionately low compared to the estimated number of cases of human trafficking. The low rate of prosecutions is matched by a low rate of victim identification as well as assistance certification.

The chapter explores the background and implications of the Trafficking in Persons (TIP) Report, which the US Secretary of State submits annually to Congress. The author assesses the

anti-trafficking measures of the US against the required standards on the basis of which countries around the world are being evaluated (through a ranking in different tiers) and concludes that the US falls short of these very same standards.

# Advocacy Update



Global Alliance Against Traffic in Women

October 2007

This month GAATW brings you news of two important events, one from Europe and one from the 6<sup>th</sup> session of the Human Rights Council (HRC). 18 October was the first EU Anti-Trafficking Day and a conference was held as part of the efforts to enhance and harmonise anti-trafficking measures at the EU level. We bring you a summary of what happened and what NGOs thought of it. In Geneva, the HRC has made further decisions on institutional reforms including the creation of a new mandate for a Special Rapporteur on Contemporary Forms of Slavery about which you will find some background information. We also remind you of two advocacy opportunities at the HRC – the selection of mandate-holders and the upcoming Universal Periodic Review process. We look forward to hearing from anyone who would like to be involved.

## The first EU Anti-Trafficking Day, 18 October 2007...

It is two years since the European Parliament unanimously adopted its anti-trafficking strategy report<sup>1</sup>. It advised EU Member States to enhance and harmonise their endeavours to combat trafficking and centre the protection of the human rights of trafficked persons in all policy and practice. In this context the European Commission, declared 18 October to be the EU Anti-Trafficking Day.



2007 is the first year that the day has been celebrated and, to mark the event, the European Commission held a one-day celebratory conference in Brussels. The Expert Group on Trafficking in Human Beings of the European Commission (Expert Group) gave considerable input into the day, including titling the conference: 'Trafficking in Human Beings: Time for Action', highlighting the need for implementation of measures to prevent and combat trafficking and to protect victims of trafficking at the EU level and in member countries.

The conference saw presentations by experts on issues related to human trafficking on the need for action to implement measures to prevent and punish trafficking and to protect the rights of trafficked persons. Franco Frattini, Vice-President of the European

<sup>1</sup> Prets Christa (2005). *Report on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation*. Committee on Women's Rights and Gender Equality, European Parliament. [FINAL A6-0400/2005](#).

Commission stated for the press, "*The results achieved so far in the fight against trafficking are not satisfactory... We are determined to promote the establishment of national mechanisms to identify and assist victims in every EU Member State... Full support for victims is a matter of respect for their human rights and human dignity.*"<sup>2</sup> He did not - contrary to his announcement - attend the conference to the disappointment of many.

No concrete commitments were made by the European Commission despite the lobbying from the Expert Group to adopt a legally binding instrument on the status of trafficked persons and to set minimum European standards of treatment for all trafficked persons, not conditional on their cooperation in criminal proceedings. The Expert Group also sought the appointment of National Rapporteurs on Human Trafficking (as the case in the Netherlands) and at EU level<sup>3</sup>.

During the conference Mike Dottridge<sup>4</sup> presented a new **manual for assessing governments' progress**: '[Measuring Responses to Trafficking in Human Beings in the European Union: An Assessment Manual](#)'. The manual contains 55 indicators against which efforts to combat human trafficking can be measured. As such it is the first comprehensive assessment tool specifically on anti-trafficking and it confirms Europe as the leader (if not action) in standard setting on combating trafficking. While the manual is directed to EU Member States, it also gives NGOs an opportunity to systematically assess their governments' efforts and to lobby according to the indicators. National Rapporteurs and National Referral Mechanisms are also encouraged to use the manual<sup>5</sup>.

NGOs from around Europe were invited to attend the conference and a number of GAATW members were present. Marieke van Doorninck from La Strada International presented a [joint statement](#) signed by 33 NGOs, including GAATW and some of its European member organisations. The joint statement urges the European Commission to encourage governments to sign, ratify and implement the relevant Conventions, calls for concrete steps to be taken to facilitate legal (labour) migration, to identify trafficked persons and support and protect them as well as to ensure access to an effective remedy, including remuneration.

NGOs are waiting to see if the EU Anti-Trafficking Day will bring new developments and actions at the regional level or remain a day for mere talks. So far many NGOs are unimpressed by the steps undertaken by the European Commission. However an official Anti-Trafficking Day serves NGOs as a platform for coordinated advocacy actions and raises awareness among governments. Such awareness raising was felt to be very necessary given the present linking of anti-trafficking measures with migration management issues and border control - measures that have contributed to the criminalisation of trafficked persons (as undocumented and thus 'illegal' migrants)

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<sup>2</sup> European Commission, [Press release](#) IP/07/1496, Brussels: 15.10.2007.

<sup>3</sup> [Opinion of the Experts Group](#) on Trafficking in Human Beings of the European Commission on the Anti-Trafficking Day, 18<sup>th</sup> October 2007.

<sup>4</sup> Mike Dottridge sits on GAATW's Working Group on Research.

<sup>5</sup> Thank you to Nita Prasad from Ban Ying for her comments.

rather than to their protection. More awareness and data is also needed for cases of human trafficking not related to the sex industry<sup>6</sup>.

#### The sixth session of the Human Rights Council...

As reform of the system of Special Procedures continues at the HRC, on 28 October 2007 the Council created two new thematic mandates, the mandate for a *Special Rapporteur on Contemporary Forms of Slavery* ([Resolution A/HRC/6/L.23/Rev.1](#)) and a Forum on Minority Issues (Resolution A/HRC/6/L.34). The future of the current 53 mandate holders (thematic and country specific Special Rapporteurs), including the one on trafficking in persons, is still unclear. Further decisions will be taken in the December Session (10-14 December 2007).

The new Special Rapporteur (SR) on Contemporary Forms of Slavery replaces the earlier Working Group of the same name and will likely be an important SR for anti-trafficking advocates. The new SR will examine themes and formulate recommendations to State Parties on all contemporary forms of slavery and slavery-like practices, but in particular those defined in the 1926 Slavery Convention, and the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery. The appointment will likely take place in December 2007 and is for a period of three years.

The transformation was lobbied for heavily by two large NGOs - Anti-Slavery International and Franciscans International. They pointed to the failure of the Working Group, established in 1975, to effectively challenge modern slavery or to raise the profile of contemporary forms of slavery within the United Nations during its 30 years of existence. One illustration of this is that more than 70 states still have not ratified, and no state has ratified in the last six years, the 1956 UN Supplementary Convention on the Abolition of Slavery - a principle international standard on slavery that the Working Group was responsible for promoting. Also, despite the Supplementary Convention being more than 50 years old, no reporting requirements have been set for State Parties.

We hope that the SR on Contemporary Forms of Slavery will be able to raise the profile of the issue within and beyond the United Nations and to make more detailed assessments of and recommendations to end slavery-like practices including human trafficking through thematic and country specific reports. The SR on Contemporary Forms of Slavery, like his/her colleagues, will be able to engage directly with NGOs, to take testimonies from and even to act on behalf of victims in countries that have not yet ratified slavery-related conventions.

It is still unclear whether the creation of this new mandate will subsume the mandate of the SR on Trafficking in Persons (an option that has been suggested by some NGOs). The Resolution calling the new mandate into existence, though, clearly states that the two SR are requested to "*co-operate fully and effectively*", suggesting the continuation of both.

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<sup>6</sup> Comments made by some European NGOs on the occasion of the La Strada International NGO platform, which took place in Skopje (Macedonia) two days prior to the EU Anti-Trafficking day.

If you have colleagues or contacts who you believe would make a good SR and promote the protection of human rights fairly and cogently, then now is the time for suggesting them - a first SR on Contemporary Forms of Slavery must be appointed and the current SR on Trafficking in Persons, Ms Sigma Huda, may not be reappointed when she comes up for review shortly.

The GAATW International Secretariat is keen to hand over to the Office of the High Commissioner for Human Rights (OHCHR) names of potential mandate holders. We kindly ask you therefore to submit any name of persons you think could be suitable to take on the mandate for a SR on Trafficking in Persons, Especially in Women and Children or on Contemporary Forms of Slavery.

The criteria for technical and objective requirements for eligible candidates for mandate holders (adopted on September 27, 2007) are as follows:

Qualification: relevant educational qualifications (university degree is not conditional) or equivalent professional experience in the field of human rights; good communication skills in one of the official languages of the United Nations.

Relevant expertise: knowledge of international human rights instruments, norms and principles; as well as knowledge of institutional mandates related to the United Nations or other international or regional organisations' work in the area of human rights; proven work experience in the field of human rights.

Established competence: nationally, regionally or internationally recognised competence related to human rights.

Flexibility, readiness and availability of time: to perform effectively the functions of the mandate and to respond to its requirements, including attending Human Rights Council sessions.

### *Universal Periodic Review*

Another advocacy opportunity of relevant to all NGOs is the first Universal Periodic Review (UPR) process to be held between 7 and 18 April 2008. The HRC has now selected the countries for the first round of examinations: Bahrain; Ecuador; Tunisia; Morocco; Indonesia, Finland; United Kingdom; India; Brazil; Philippines; Algeria; Poland; Netherlands; South Africa; Czech Republic; and Argentina.

In her address to the Council, High Commissioner for Human Rights Louise Arbour stressed the importance of the UPR process, stating "*the credibility of the United Nations human rights system hinges upon satisfactory implementation of the review*".

NGOs can make submissions to the UPR review process before 20 November 2007. A summary of NGO submissions will be one of the documents used to review governments. If you are interested to learn more about NGO involvement you may be interested in the [information note for NGOs](#) or contact the GAATW International Secretariat and we will give any support we can for you to make a submission.