



Global Alliance Against Traffic in Women

July 15, 2008

The Honorable Dr. Condoleezza Rice
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

VIA FAX AND E-MAIL

RE: Trafficking in Persons Report June 2008

Dear Madam Secretary,

The Global Alliance Against Traffic in Women (GAATW) welcomes the release of the 2008 Trafficking in Persons Report (TIP Report). GAATW is an Alliance of more than 90 organisations spanning five continents committed to ending trafficking and to the protection of the human rights of trafficked persons and women migrant workers. The Alliance includes organizations that provide direct assistance to trafficked persons and exploited migrant workers; research and policy organisations; self-organised groups of migrant workers, domestic workers, sex workers and survivors of trafficking; and grassroots human rights and women's rights organisations.

At the outset, we recognise that during the past eight years the TIP Report has become increasingly influential worldwide in the fight against trafficking. This year we are pleased to see more attention given to trafficking for labour exploitation and the recognition that migrant workers can be trafficked even if migrating legally. We hope that the TIP Report will continue to focus more on other forms of trafficking and the protection of these trafficked persons.

Also noted in the report was the desire of the U.S. to focus more on the exploitation element of trafficking rather than the movement. This is an important development that will hopefully shift the discourse away from an overemphasis on punitive border control as a way to combat trafficking towards the eradication of exploitative working conditions. Still, we caution the U.S. not to use this as a means to equate all sex work with trafficking, and, furthermore, we urge the U.S. government to distinguish between forced and voluntary sex work in its definition of trafficking.

Despite these improvements, we, on behalf of the Alliance, are compelled to address a few concerns which undermine the efficacy of this report:

- Lack of human rights impact assessment of anti-trafficking measures hinders full understanding of the trafficking situation;
- Conflation of trafficking with prostitution leads to harmful anti-trafficking policies;
- Lack of proper reference or citation for research and statistics undermines the credibility of the TIP Report.

Lack of human rights impact assessment of anti-trafficking measures hinders full understanding of the trafficking situation

For the past eight years the TIP Report has been successful in spurring other governments to combat trafficking within their borders, resulting in some positive measures that protect victims and prosecute offenders. We are concerned, however, that in their haste to meet the minimum standards of the TIP Report, in an attempt to avoid a low ranking, countries are enacting laws that are adversely affecting the very people they should be protecting.

In 2007 GAATW commissioned eight country-studies,¹ which have been compiled into a publication entitled *Collateral Damage*. This report examines the measures states have taken to combat trafficking and the human rights impacts of these measures. As protection of victims is one of the main criteria for rankings, we urge the TIP Report to take notice of the findings of *Collateral Damage*, such as

- the practice common in destination countries to **make assistance to trafficked persons conditional on their agreement to cooperate with the authorities**. Conditional assistance “means that decisions about whether and when to provide assistance to a trafficked person are based on factors that are not related to the rights of the person.”² *Collateral Damage* found that even when a person is willing to cooperate, this does not guarantee access to services as demonstrated by a case in Australia where housing and services were revoked when a witness was “deemed no longer useful to the authorities”³ and in the U.S. where a witness was denied federal services because the case fell under a state jurisdiction, and that state did not have a system for providing assistance.⁴

Recently a GAATW member, Women's Information Center for women from Africa, Asia, Latin America and Eastern Europe (FIZ), issued a statement⁵ criticising the TIP Report's omission of any reference to the Swiss policy of conditional assistance.

- “We [FIZ] find it irritating that it is not explicitly mentioned that **victims are deported** if they decide not to cooperate with police and justice. As long as a permit is only given on the condition of the victims' cooperation, nobody can seriously talk of victim protection. The new law does not strengthen victims' rights and safety. The law serves the needs and objectives of police and prosecutors to have a witness available in the first place”.⁶

Unfortunately, Switzerland is not the only country where victims are being deported for not cooperating with authorities, despite the findings that while there may be possible short term benefits for law enforcement, evidence suggests that the practice of conditional assistance “contributes to making trafficked persons suspicious of law enforcement agencies and unwilling to talk openly about their experiences, consequently hindering rather than helping with prosecutions.”⁷ Moreover, many countries do not have a proper mechanism in place to correctly identify victims, resulting in those victims being detained and deported, heightening their vulnerability to being re-trafficked.

As the TIP Report has become more influential, its capacity to guide the discourse on trafficking has grown. **We urge the U.S. to use this global leadership to begin conducting impact assessments on current anti-trafficking policies as part of the criteria for the TIP report.** In order to properly evaluate anti-trafficking efforts, the TIP Report must examine the implementation and impact of such laws, especially the consequences of “conditional assistance”. An accurate accounting of the trafficking situation is crucial in order to provide recommendations that minimise the “collateral damage”.

¹ The eight countries are: Australia, Brazil, Bosnia and Herzegovina, India, Nigeria, Thailand, United Kingdom and the United States.

² Global Alliance Against Traffic in Women (GAATW). *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World*. Bangkok, Thailand, 2007. 14.

http://www.gaatw.net/index.php?option=com_content&task=blogcategory&id=0&Itemid=179

³ *Ibid.* 49.

⁴ *Ibid.* 230 – 256.

⁵ Women's Information Center for women from Africa, Asia, Latin America and Eastern Europe (FIZ). (23rd June 2008). TIP Report on Switzerland. Zürich.

⁶ *Ibid.*

⁷ GAATW. 14.

Conflation of trafficking with prostitution leads to harmful anti-trafficking policies

We are concerned that the U.S. government's position on the linkages between sex work and trafficking are **unduly pressuring countries to focus on curbing prostitution rather than protecting the human rights** of those trafficked or vulnerable to trafficking. This has the potential for disastrous consequences for the most poor and vulnerable women in society.

- A recent example is the new anti-trafficking law in Cambodia that equates all sex work with trafficking and does not distinguish between forced and voluntary sex work. There have been an increasing number of reports about the abuse of sex workers in Cambodia as a result of the implementation of the anti-trafficking law in the country. The new policy has resulted in a **mass crack down on sex workers resulting in heinous human rights violations**, including detainment, as well as allegations of rape by law enforcement officials. As this is a very recent example, data is still being gathered and reports researched; still there is strong evidence to suggest that Cambodia's anti-trafficking law was heavily influenced by the U.S. and the TIP Report. Furthermore, Cambodia's trafficking policy and subsequent raids were implemented in an attempt to move up in the tier system, which it was successful in doing, despite these widespread human rights abuses.
- Another concern was the TIP Report's claim that since Sweden criminalised the purchasing of sexual services in 1999, "there has been a decrease in known human trafficking cases, and shrinkage of the commercial sex industry". No citation or reference was provided to substantiate this statement. Furthermore, no analysis of this claim is given about what is included in "known". The report did not consider that trafficking cases might not have declined, but merely have been pushed further underground, thus making identification of victims increasingly difficult.

We urge the U.S. to closely examine the adverse affects its zero-tolerance prostitution policy is having upon those most vulnerable to trafficking. Furthermore, we are concerned that in its haste to promote policies that conform to the U.S. government's stance on prostitution, the TIP Report is presenting speculation as genuine research. In doing so, it damages the legitimacy of the report.

Lack of proper reference or citation for research and statistics undermines the credibility of the TIP Report

The explicit lack of proper citations and references for trafficking statistics and reports cited throughout the whole introduction is troubling. For example:

- On page 14 under the "Facts on Child Sex Tourism" it is reported that an "estimated two million children worldwide face the horrors of exploitation in the transnational sex trade", yet there is no citation for where this statistic originated. Moreover in that same paragraph, nameless "studies" are cited that "indicate that each of these children may be victimised by 100 to 1500 perpetrators per year".
- The profile about "Victim Trauma and Recovery" (page 21) offers many statistics from a 2006 study that conducted interviews with 207 trafficked women about violence suffered during the course of being trafficked. While these statistics are compelling, their impact is lessened by not being appropriately referenced. No information is provided about who conducted this study or even where the study was located. Furthermore, it is the sole research cited in this section.
- In the "Custody of Child Trafficking Victims" section (page 30), three countries (China, India, and Ghana) are given as examples of how "rescued" children were subsequently released back into the custody of traffickers. Still in all three profiles only generic "reports" were cited with no specific information such as the name of the report or who conducted the research.

In all of these instances, neither the statistic nor the "studies" were footnoted or properly referenced within the text. It is vital that a report of this stature support its arguments with credible and verifiable data. To do anything less undermines the credibility of the TIP Report. While reliable research on trafficking is scarce; it does not serve the TIP Report to omit appropriate

references, it merely weakens its impact. We recommend that the State Department begin providing proper citations for all referenced research and statistics. Thus providing verifiable evidence for its claims and strengthening the report.

As noted in the beginning of this letter, the TIP Report continues to improve each year, and we welcome this ongoing effort to provide a global assessment. While we have outlined only a few of our concerns, we have included recommendations for other areas we believe need improvement. We urge you, as the U.S. Secretary of State, to seriously consider the issues highlighted in this letter in preparation for the 2009 Trafficking in Persons Report.

Recommendations

- Incorporate an impact assessment of anti-trafficking policies and practices as part of the criteria for the TIP Report, including inter alia:
 - the **impact of these policies and practices**, especially that on the human rights of migrants and sex workers;
 - the **ineffectiveness of conditional assistance**;
 - the **quality of services provided** and if they comply with human rights standards;
 - the **impact of punitive migration policies**.
- Use an evidence-based approach when assessing anti-trafficking measures.
- Reassess the U.S. government's position on the links between prostitution and trafficking. Examine the adverse affects the zero-tolerance prostitution policy is having upon those most vulnerable to trafficking.
- Provide proper citations for all referenced research and statistics, so as to provide verifiable evidence for its claims.
- In evaluating countries' prevention efforts, consider measures that address the root causes of trafficking, namely poverty, gender inequality, traditional social structures and lack of safe, legal migration possibilities.
- Focus on trafficking into all sites of work (formal and informal) in which forced labour occurs: e.g. agriculture, construction, domestic work, manufacturing, and sex work.

We appreciate you taking the time to review this letter and hope to continue this discussion. Please do not hesitate to contact us with questions or requests for information.

Sincerely,



Bandana Pattanaik
GAATW International Coordinator

cc: Ambassador Mark Lagon, Director, Office to Monitor and Combat Trafficking in Persons
Dr. Paula J. Dobriansky, Under Secretary, Democracy and Global Affairs
Senator Joseph Biden
Senator Sam Brownback
Senator Benjamin Cardin
Senator Orrin G. Hatch
Senator Arlen Specter.