

Anti-Trafficking Programs In South Asia:

Appropriate
Activities,
Indicators
And
Evaluation
Methodologies



SUMMARY REPORT
OF A TECHNICAL
CONSULTATIVE
MEETING

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Anti-Trafficking Programs in South Asia: Appropriate Activities, Indicators and Evaluation Methodologies

Summary Report of a Technical Consultative Meeting

September 11-13, 2001
Kathmandu, Nepal

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Other individuals worked behind the scenes and were not, unfortunately, able to attend the meeting. John Townsend and Andy Fisher from the Population Council's FRONTIERS and HORIZONS Programs provided timely institutional support, ensuring that resources could be applied for the production of this meeting. Marco Gramegna and Ruben Korevaar from the IOM offices in Geneva and Dhaka assisted in the strategic thinking about the meeting's objectives. Katherine Blakeslee from the Office of Women in Development, USAID/Washington, D.C. (who was able to participate in the meeting) and Carla Barbiero from the Social Development Office, USAID/New Delhi believed in the potential of this meeting from the outset and provided generous financial and organizational support for its realization.

This summary report of the meeting is just that, an overview of the insights and perspectives reported on and discussed. There were too many contrasting views and finer points of discussion to report on in the entirety. Thanks are given to the reviewers of this summary report (Elaine Murphy, Simon Baker, Shireen Jeejeebhoy, Matthew Friedman, Chris Parker) for drawing attention to areas that were overstated or under-reported. However the selection of topics and the manner in which they are

presented should not be attributed to the papers' authors or reviewers, as this responsibility rests with the author of the summary report. The reader is referred to

the individual papers for more complete information on the content of each intervention, and the participants list for follow-up discussions.

BACKGROUND

Throughout South Asia men, women, boys and girls are trafficked within their own countries and across international borders against their wills in what is essentially a clandestine slave trade. The number of trafficked persons is difficult to determine as the bribery and corruption surrounding the practice render an estimate of its magnitude virtually impossible. The Congressional Research Service and the U.S. State Department estimate that between 1 to 2 million people are trafficked each year worldwide with the majority originating in Asia (over 150,000 from South Asia and 225,000 from South East Asia).¹ Its existence in South Asia is certain and the toll of human suffering is evident in cities and villages throughout the region. The root causes include extreme disparities of wealth, increased awareness of job opportunities far from home resulting from globalization and the penetration of mass media, continuing and pervasive inequality due to caste, class and gender bias throughout the region, lack of transparency in regulations governing labor migration (both domestic and cross-border), poor

enforcement of internationally agreed-upon human rights standards, and the enormous profitability for traffickers.

The Population Council, UNIFEM and PATH led a highly participatory approach to explore appropriate activities that address the problem of human trafficking in South Asia. A Technical Consultative Meeting was held in Kathmandu, Nepal September 11-13, 2001 to discuss these issues. Approximately 50 representatives from South Asian institutions, United Nations agencies, and international and local NGOs attended the meeting.

Three principles guided the meeting. The first was that it should be truly consultative, including a variety of informed agencies as well as many viewpoints. The second organizing principle was to emphasize preparation: presenters at the meeting wrote original papers that were circulated to all participants several weeks before the meeting (see list of papers for participants at the end of this report). The third organizing principle was a commitment to improving the design and evaluation of programmatic interventions. The overall goals for the technical consultative meeting were to increase awareness about the intersection of trafficking and development programs in

¹Congressional Research Service, Report 98-649
"Trafficking in Women and Children: The US and
International Response" May 10, 2000;
www.usinfo.state.gov/topical/global/traffic

South Asia, mobilize resources to prevent the occurrence of trafficking, and ensure the reintegration of trafficked persons, all within a context that protects individuals' human rights. The meeting was structured around three practical objectives:

1. To clarify conceptual frameworks used to define trafficking.
2. To identify actual and potential intervention models for the South Asian context that: a) protect the rights of trafficked persons, and b) empower current and returned trafficked persons and persons who are vulnerable to trafficking.
3. To identify program evaluation methodologies to measure the performance and impact of programmatic interventions.

This report summarizes the principal points from each of the papers and captures some of the important discussion points that emerged from each panel presentation.

CLARIFYING CONCEPTS AND TERMINOLOGY

Legal and Human Rights Perspectives

International Law and Conventions Related to Trafficking

The highly politicized relationship between migration and human trafficking was the theme of the meeting's first session. The growing international labor market runs into conflict with barriers to lawful migration, creating a demand that is being met by smugglers and traffickers. The lack of distinction between lawful labor migration, irregular migration, smuggling and trafficking has left many legal issues unresolved. Anne Gallagher (Office of the UN Commissioner for Human Rights, Geneva), addressed these concerns in her paper that gave an historical overview of 20th century international law pertaining to trafficking as viewed from a human rights perspective.

The international prohibition on slavery and the slave trade was one of the first rights to be recognized under public international law. Indeed, the 1927 Convention on Slavery (drafted under the auspices of the League of Nations) is widely recognized as the first modern international treaty for the protection of human rights. The 1948 United Nations Universal Declaration of Human Rights expanded the prohibition against slavery and the 1957 Supplementary Convention on the Elaboration of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery further expanded the prohibition to apply it to the institutions and practices of debt bondage, serfdom, servile forms of marriage and the exploitation of children, which are all held to be "similar to slavery." The Convention includes additional terms, including prohibitions against placing persons in "servile status" (i.e., a victim of one of the practices referred to as "slave-like" or holding persons in "servitude"). Although many elements of slavery or servitude (e.g., the detention or sale of the victim, degrading treatment, total control over the victim) are present in trafficking, Gallagher made the point that it has been legally difficult to sustain claims that trafficking is included in the jus cogens norm prohibiting slavery and the slave trade.

State parties to the Slavery Convention have undertaken measures to prevent compulsory labor “from developing into conditions analogous to slavery.”² The 1930 ILO *Forced Labor Convention* definition of forced labor is still widely accepted today: “all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”³ However, a United Nations body has never formally invoked this international prohibition on forced and compulsory labor in relation to a case of trafficking, forced prostitution or exploitation of prostitution. Debt bondage is a condition related to maintaining a situation of forced labor and has been identified by the ILO *Forced Labor Convention* as a practice similar to slavery, which defines a victim of debt bondage as “a person of servile status.”⁴

Debt bondage is defined as “. . . the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”⁵

During the first half of the 20th century

various international conventions dealing with traffic in women and girls (the so-called “white slave” trade) were concluded and in 1949 they were consolidated into one instrument known as the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*. This convention has a number of important provisions dealing with cross-border cooperation and protection of foreign victims, and it has attracted strong measures of political support. However, as Gallagher notes, “many women’s rights activists (and States which operate systems of licensed prostitution) have criticized this instrument for not focusing sufficiently on the more coercive forms of sexual exploitation and for failing to distinguish between consensual and forced prostitution. Prohibitions on forced prostitution and exploitation of others for prostitution have been incorporated into other instruments, such as the *Convention on the Elimination of Discrimination against Women*” (Gallagher, p. 9).

The Convention on the Rights of the Child goes further than the ILO *Forced Labor Convention* or the 1957 *Slavery Convention* in stipulating the actions that State Parties are to take to prevent the abduction, sale or trafficking of children for any purpose or

²In Gallagher, page 9. *Convention on Slavery, Article 5.*

³In Gallagher, page 9. ILO *Convention No. 29 concerning Forced or Compulsory Labour* (1939)

⁴In Gallagher, footnote 100: David Weissbrodt and Anti-Slavery International, *Updated Review of the Implementation of and Follow-up to the Conventions on*

Slavery, Sub-Commission on the Promotion and Protection of Human Rights

⁵In Anne Gallagher, page 10. *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, Article 1(a).*

form (Article 35), including economic or sexual exploitation or abuse. The prohibition against trafficking and related exploitation of children has been reiterated and extended through the adoption of the ILO *Convention on the Worst Forms of Child Labor*⁶ in 1999.

The 1999 UN Crime Commission work and the November 2000 *Convention against Transnational Organised Crime* are supplemented by two additional protocols, *Smuggling of Migrants*⁷ and *Trafficking in Persons Especially Women and Children*. The latter instrument is often referred to as the *Trafficking Protocol* and provides the currently agreed upon definition of trafficking that formed the basis for the meeting's discussion:

Trafficking in persons is defined as “...the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over

*another person for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.*⁸

The critical factor that distinguishes trafficking from smuggling is that trafficking includes the presence of force, coercion or deception for the purpose of exploitation. Both can occur within a country or inside cross-border movement, but smuggling involves consent, which is a critically important distinction. As Gallagher noted, the only situation in which non-coerced movement is considered trafficking is when the individual being exploited is a minor. (The special consideration of trafficked children is addressed more fully in later sections of this report.) Several elements of international law pertaining to trafficking were reviewed in her paper with special attention to the position of non-citizens as being one of the most highly politicized and central issues to protecting the rights of trafficked persons. Although traditional

⁶In Gallagher, page 12. *Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*, adopted 17 June 1999 by the General Conference of the International Labor Organization (ILO.)

⁷In Gallagher, page 3. *Protocol against the Smuggling of Migrants by Land, Sea and Air*, supplementing the *UN Convention against Transnational Organized Crime*, Report of the Ad Hoc Committee on the Elaboration of a *Convention against Transnational Organized Crime* on the work of its first to eleventh sessions, UN Doc. A/55/383 (2000), Annex III, Article 3(a). This instrument provides a definition of smuggling that clearly distinguishes it from trafficking: Smuggling of migrants is defined as “... the procurement, in order to

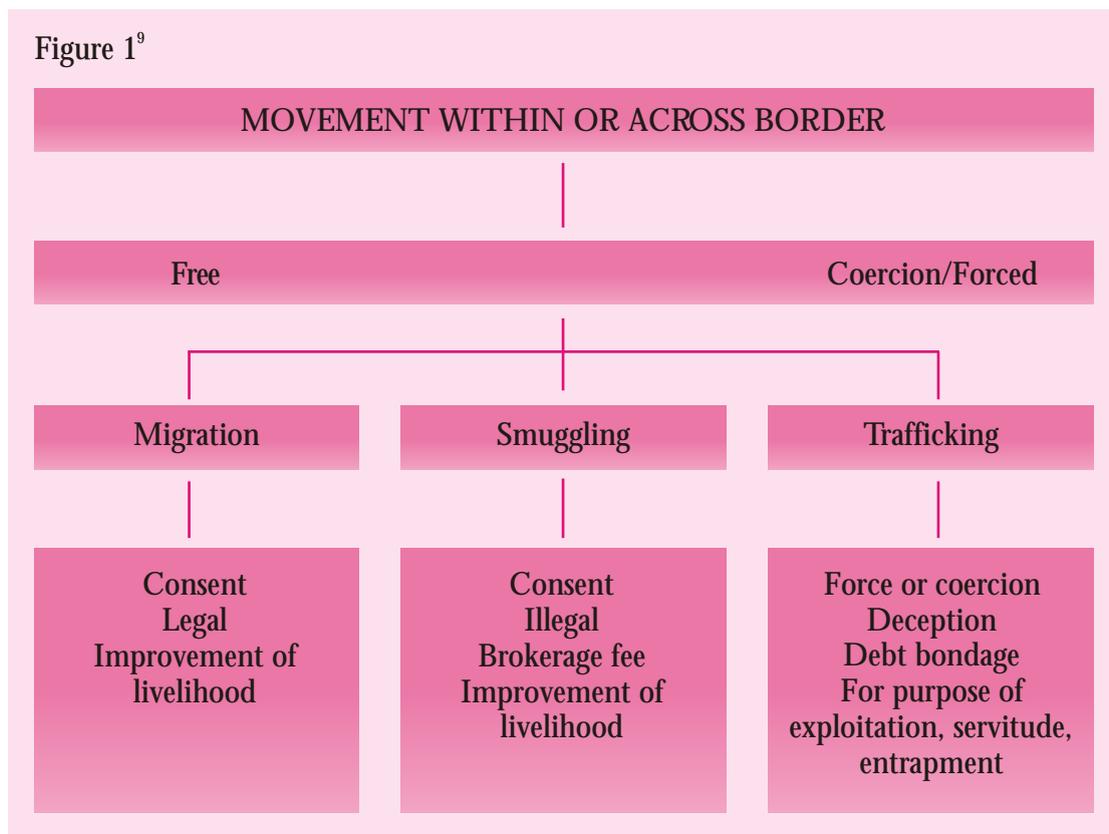
obtain directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”

⁸In Gallagher, page 3. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the *UN Convention against Transnational Organized Crime*; 12 December 2000, supra note 2, Article 3 (a). The Protocol further states that the recruitment, transportation transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in sub-paragraph (a) *Ibid*, Article 3(c).

international law recognizes that a host state owes “equal treatment” or an “international minimum standard” to aliens within its territory, Gallagher noted that such protection is uneven and uncertain, although core rights such as the prohibition on slavery, forced labor and debt bondage do appear to be protected consistently. Despite these well-recognized rights, the distinction between trafficking and migration for work are rarely made, with the result that the rights of the trafficked person as a worker are rarely articulated or

protected. Although the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families that was adopted by the UN General Assembly in 1990 clearly stipulates many protections for non-citizen migrant workers, it has been ratified by only 16 States to date and is thus not in effect. The failure to gain widespread support for this convention is indicative of the difficulties in securing rights for non-citizens.

Figure 1⁹



⁹Source of Figure 1: Adopted from model presented in *Human Rights in Practice* Global Alliances Against Trafficking in Women, Bangkok 1999, page 8

Gallagher concluded her review of the international law pertaining to trafficking by noting that existing international law offers important but limited protection to trafficked persons and smuggled migrants through their status as migrants/aliens, or as migrant workers. However, there is a marked reluctance (in general) on the part of States to recognize any but the most fundamental rights as being applicable to this group. The most recent and relevant international instrument for trafficking is the *Trafficking Protocol* (mentioned above). It was opened for signature in December 2000 and 81 countries having signed it to date. The protocol represents a significant step forward in the fight against trafficking, most notably in the emerging consensus that it is time to end debate about conceptual issues surrounding trafficking and use the existing frameworks to develop national policies and programs that prevent trafficking but do not inhibit labor migration.

Application of International Covenants to the South Asia Region

As a result of the consensus on what constitutes a definition of trafficking, attention is now shifted towards the application of the agreed upon international covenants on trafficking and their effects on national and regional law reform in South

Asia. This theme was explored in the paper by Jyoti Sanghera (Centre for Feminist Legal Research, New Delhi). In it she critically analyzed recent legislative reform in the region and concludes that instead of ensuring human rights, these contemporary developments frequently give witness to the creation of disempowered individuals in South Asia. Although new international covenants on trafficking complemented by national legislation such as the United States' recent *Victims of Trafficking and Violence Protection Act of 2000* have created a sense of workable definitions among anti-trafficking constituents, the application of these definitions into state laws and services has not advanced. The interpretation of agreed upon definitions is frustrated by class and gender biases, as well as reluctance (or inability) of states to ensure the rights of all persons within their borders. These impasses result in misrepresentations on the incidence and nature of trafficking, the conflation of trafficking and irregular migration, and the conflation of trafficking and prostitution. The latter gives rise to unproductive debate about whether commercial sex work is a valid occupation and detracts attention from the larger issue of ensuring that a person's right to work is not conditional upon the type of labor.

As Sanghera notes, two principal forces influence national anti-trafficking legislation

and policies in South Asia. The first is the tendency to identify and assist only the “innocent victim,” and the second is the perceived need to protect women from exploitation and harm. Although the intention motivating these reforms is benevolent, the resulting actions are a cause of grave concern. It is recognized that because they have limited access to the public world and safe channels of mobility, coupled with fewer measures of legal and social protection in many societies, women and minors throughout South Asia are highly vulnerable to trafficking. The gender-

“In the contemporary reality of South Asia women and increasingly young girls are the new migrants, the new movers and shakers. Traditional as well as on-going male out-migration for employment, together with an increasing insecurity of funds and sustainable livelihoods, act to push women and girls into assuming new roles for their families. Limited access to the public world and safe channels for mobility, as well as the lack of recourse to measures of legal and social protection intensify for women and minors vulnerability during the process of migration.” (Joyti Sanghera, page 6)

sensitive analysis of migration developed by Joyti Sanghera illustrates how trafficking transforms an agent (a woman seeking better opportunities) into a victim, and how national anti-trafficking legislation in South Asia that prevents mobility and limits access to new forms of livelihood serves to disempower women and restrict their rights.

Recent developments in anti-trafficking legislation from Bangladesh, India and Nepal were drawn upon to illustrate these points. In all three settings there is a clear trend in national legislation to draft increasingly draconian laws on trafficking with stiff penalties, including application of the death penalty in Bangladesh for a range of crimes against women, including trafficking. Legislation pending in Nepal contains a strongly moralistic approach that emphasizes safeguarding the “interest of the general public” and maintaining “good conduct” by bringing together wide-ranging offenses, especially sexual offenses into one general anti-trafficking law. Language used to describe trafficking is often lumped together with crimes against women. For example, Indian and Nepali legislation deals simultaneously with issues of rape, pornography, child sexual abuse, prostitution, abduction, wrongful confinement, battering and trafficking. These and other laws do not differentiate between women and children and provide

for severe penalties, including capital punishment and life imprisonment. Ironically, these extreme penalties have led to less rather than more protection for women and children. Many courts are reluctant to convict people based on imperfect investigations and evidentiary procedures when mandatory life imprisonment or the death penalty will be imposed. This results in high acquittal rates, which are sending clear signals to societies in the South Asian region that perpetrators of trafficking will likely escape punishment. Anecdotal evidence suggests that another outcome of legislation mandating stiff penalties is an increase in the amount and frequency of bribes, as wealthy traffickers seek to avoid prosecution of crimes with harsh penalties.

A second category of legislative restrictions that lead to the disempowerment of women is the increase in anti-trafficking legal measures that seek to protect women from harm by institutionalizing policies that restrict their mobility. For example, the Nepali "Foreign Employment Act of 1985," the "Foreign Employment Order" issued by the Ministry of Labor, and the "Passport Order" all restrict the mobility of single Nepali women seeking to move and work across the border. These legal restrictions are negative indicators of development (such as those

suggested by the World Bank) that link a woman's ability to voluntarily migrate with measures of empowerment and self-determination.

A third indicator of the disempowerment resulting from South Asian legal reform related to trafficking (cited by Sanghera) is the criminalization of prostitution and the infantilization of women. National legislation in Bangladesh, India and Nepal that criminalizes prostitution results in criminalizing the prostitute as well, regardless if she has been trafficked. A trafficked woman's criminal status will overshadow her victim status under the terms of this legislation. Commonly, only women are arrested on charges of prostitution, and only adolescent minors are considered exempt from being criminalized (as they are considered innocent and cannot be expected to have acted in their own best interest). According to this common line of thought, the only way a trafficked woman's victim status can be protected is to treat her as a child and assume that she could not know where her best interest lay when she decided to practice sex work. The socio-legal construction of an innocent victim of trafficking is one of a disempowered subject whose autonomy and agency have been criminalized. Sanghera concluded that despite new developments in the

international legal framework that defines trafficking, there is a pressing need for national law reform to move away from a moralistic stance of protecting women to measures that reflect a genuine human rights model, celebrating the autonomy and agency of South Asian women.

Trafficking within a Human Rights Context

Lin Chew (Asian Human Rights Commission, Hong Kong) next presented a summary of the Global Alliance Against Trafficking in Women publication, *Human Rights and Trafficking in Persons: A Handbook (2001)*.¹⁰ The analysis of trafficking from within a human rights framework draws upon standards and principles of rights that have been encoded with United Nations treaties and conventions (described earlier by Anne Gallagher) and which can form a basis for analyzing any social issue.

In addition to these conventions-based mechanisms, the United Nations possesses extra-conventional offices and working groups that investigate cases of trafficking, communicate with governments, and make recommendations to other bodies for redress or actions to protect against future violations. Among these bodies the following are the most relevant for trafficking:

- Commission on Human Rights
- Office of the High Commissioner for Human Rights, Special Rapporteur on Violence against Women
- Special Rapporteur on Human Rights of Migrants
- Sub-Committee on the Prevention of Discrimination and Protection of Minorities
- Working Group on Contemporary Forms of Slavery
- Offices within UN specialized agencies specifically addressing trafficking and child rights (ILO, UNIFEM, UNICEF)

A general conclusion that can be made based on the work of these extra-conventional bodies is that the human rights of trafficked persons are extensively violated by governments around the world. As Lin Chew notes, “it is a common misunderstanding that traffickers harm victims and governments rescue and protect them. Although trafficked persons suffer serious criminal violations at the hands of traffickers, more often than not, once they are released from the slavery-like or forced labor conditions they are . . . treated more like a criminal than a victim” (Chew, page 3). Often trafficked persons do not have the opportunity to lodge complaints, seek damages, assess whether it is safe to return

¹⁰GAATW, Bangkok, Thailand 2001.

home, collect their belongings or seek asylum before being taken into custody and deported. In all such cases state parties can

be held directly responsible for these violations of trafficked victims' human rights.

Figure 2:¹¹ Human Rights Violations in the Process of Trafficking

Criminal Violations	Rights	International Instrument ¹²
1. Torture, rape, beating, - physical, psychological	Right not to be tortured or submitted to cruel and/or degrading treatment Right to be free from physical violence (rape, sexual assault, domestic violence, forced prostitution, trafficking)	Art 5 UDHR Art 7 ICCPR CAT entire convention Art 3 UDHR Art 6 ICCPR CEDAW entire convention especially Art 2, 5, 15 & 16
2. Forced drug or substance abuse	Right to personal autonomy Right to enjoy psychological, physical and sexual health	Para 97 BPFA Art 12 ICESCR
3. Threat of reprisals to family members back home	Right to personal autonomy	Art 12 UDHR
4. Deprivation of food, malnourishment, lack of access to medical and health	Right to enjoy psychological, physical and sexual health	Art 25 UDHR Art 12 CDESCR
5. Physical Confinement, confiscation of passport/identity papers, isolation (prohibited from engaging in social contact, interception of letters)	Freedom of choosing residence and moving within own country	Art 13 (1) UDHR Art 12 (1) ICCPR
6. Overwork, long hours, no rest	Right to work freedom from forced labor Right to just and favorable conditions	Art 8 (3) ICCPR ILO Convention No 29 entire convention Art 23 (1) UDHR
7. Bad conditions of work, poor health and safety measures	Right to safe and healthy working conditions	Art 23(1) UDHR Art 7 CDESCR Art 11 (f) CEDAW
8. No or delayed payment for work	Right to just and favorable remuneration	Art 23 (3) UDHR
9. Extraction of fees, payment, debt-bondage	Freedom from slavery Right to be free imprisonment for debt or failure to fulfill a contract obligation	Art 11 ICCPR
10. Violation of contract by employers	Right to equal pay from equal work	Art 23 (2) UDHR

¹¹Source: *Human Rights and Trafficking in Women: A Handbook*, GAATW, Bangkok, 2001. cited in Lin Chew.

¹²List of abbreviations of international instruments:
UDHR: Universal Declaration of Human Rights
ICCPR: International Convention on Civil and Political Rights
ICESCR: International Convention on Economic, Social and Cultural Rights
CAT: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CEDAW: Convention on the Elimination of All Forms of Discrimination against Women
CRC: Convention on the Rights of the Child
ILO No. 29: International Labor Organization Convention No. 29 Concerning Forced Labor
ILO No. 105: International Labor Organization Convention No. 105 Concerning Abolition of Forced Labor
UNSC: United Nations Slavery Convention
UNSCAS: Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions

The *Trafficking Protocol* contains strong law enforcement provisions designed to assist governments to organize and share information linked to identifying and prosecuting traffickers. While the *Trafficking Protocol's* focus on prevention is positive, it has an over-emphasis on criminal prosecution that can detract from protecting the human rights of victims. Specifically, the *Trafficking Protocol's* provisions are limited to protecting and assisting trafficking victims who agree to become witnesses for the state, and very little attention is given to providing aid to trafficking victims who cannot or will not become witnesses. The law enforcement provisions mandate state obligations for law enforcement while the protection and assistance provisions in the *Trafficking Protocol* are discretionary.

These shortcomings led Lin Chew to label the definition of trafficking contained in the *Trafficking Protocol* as a “Crime Prevention Definition” in contrast to the “Human Rights Definition” developed by the UN Special Rapporteur on Violence against Women and accepted by the UN Commission on Human Rights:

“Trafficking in persons means the recruitment, transportation, purchase, sale, transfer, harbouring or receipt of persons:

- (i) by threat or use of violence, abduction, force, fraud, deception or coercion

(including the abuse of authority), or debt bondage, for the purpose of:

- (ii) placing or holding such person, whether for pay or not, in forced labor or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described in(i).”¹³

The UN High Commissioner for Human Rights has enumerated the basic principles that States should follow to combat trafficking. The list includes, among other points, the following:¹⁴

- Trafficked persons should not be criminalized for the coerced illegality of their entry or residence in countries of transit and destination, or for the coerced activities they perform as a consequence of their status as trafficked persons.
- Victims of trafficking including those with “irregular” immigration status should be granted protection and necessary physical and mental care by the authorities of the receiving country.
- The safe return of victims, instead of automatic repatriation, should be ensured, particularly in cases of organized criminal involvement.
- Women and children should not be treated the same in the identification,

¹³UN Special Rapporteur on Violence against Women Radhika Coomaraswamy; Report to the UN Commission on Human Rights (E/CN 4/2000/68), February 2000. (in Lin Chew, page 6)

¹⁴Mrs. Mary Robinson, UN High Commissioner for Human Rights, address to the International Abolitionists' Federation Conference on Trafficking in Women “Breakdown of Borders,” Copenhagen, December 2, 1999 (Cited in Chew, page 9).

rescue and repatriation process.

- Efforts must be made to address the root causes of trafficking, including poverty, inequality, discrimination and racism.

Rights constitute an abstract principle that needs to be actualized through conscious application of principles such as those described by the UN High Commissioner for Human Rights. Actions that truly enhance human rights are those that individuals undertake for themselves. Thus, human rights-oriented programs that seek to prevent trafficking need to work through legal measures that enable women to claim their rights, including the creation of transparent and manageable procedures for legal migration for all kinds of work. Lin Chew reminded the meeting that a crucial indicator for predicting the success of activities to promote human rights is the participation of people who are most directly concerned. Discrimination, in this case discrimination against migrant workers or workers of a particular industry, is the chief obstacle to participating in a process that promotes human rights.

The legal response to trafficking, either through international conventions or state-sponsored regulations can never be a complete response nor a solution. Alice Miller's (Columbia University) comments

on papers by Gallagher, Sanghera, and Chew drew attention to understanding that law is but one of several tools that can be used to combat trafficking. An over-reliance on legal mechanisms can produce results that are counter-productive. When laws are created to be as broadly encompassing as possible, an over-generalization occurs that actually restricts the application of the law and reduces its impact. Legal measures to restrict trafficking that lack specificity in terms of gender and age have been shown to mischaracterize the harm done by trafficking, and actually compound restrictions on the movement and employment of younger women instead of protecting these rights. Movement in and out of coercive and exploitative circumstances is a dynamic process that is well recognized in irregular migration, smuggling and trafficking. Interventions (legal or programmatic) that intercept trafficking at its outcome point, rather than at the time or place when it first occurs draw attention to identifying when movement within or between countries becomes exploitative and not voluntary, and serve to protect (as proposed to limit) an individual's right to migrate. A human rights analysis draws attention to the protection of equality and the promotion of non-discriminatory migration.

Movements and Risks

Inconsistencies within Functional Definitions of Trafficking

Matthew Friedman (USAID/Dhaka) next presented a paper that explored some inconsistencies within the trafficking paradigm. The definitions of trafficking employed by the UN *Trafficking Protocol* and the United States *Victims of Trafficking and Violence Protection Act of 2000* deconstruct trafficking into three aspects: "(1) movement and trade/sale of a person, (2) techniques used to bring about a condition for this movement (e.g., deception, fraud, violence), and (3) a listing that relates to the "purpose" of movement (e.g., forced labor, prostitution, servitude or debt bondage)" (Friedman, page 2). These three elements draw attention to the movement of people, but do not directly address the conditions of the outcome or end point of the movement. The use of this type of language is not restricted to the UN or the United States Government. The term "trafficking," which itself connotes movement is not always translated into other languages in a manner that promotes a wider understanding of the issues that are involved. For example, in Bangla the term is commonly translated to mean "movement of women across borders." The emphasis on movement has several drawbacks. It shifts attention to prevention

and rescue in transit, activities that are more closely aligned with stopping irregular migration (and which are inherently difficult to enact without limiting migration) than investigating violations of human rights in the workplace.

Friedman reminded the meeting that anti-trafficking programs could fail to take into consideration a person's voluntary choice to engage in a particular type of work, with the result that all persons who engage in certain occupations (e.g., sex work) are viewed as being forced. Furthermore, voluntarism is a status that individuals may enter into only after a substantial period of being entrapped. The

"...a major element of the human trafficking problem really comes down to the following: a process by which a person loses control of their ability to make choices within an exploitative work-related situation. This is one of the most critical elements that is sometimes lost in discussions. Trafficking is a combination of migration and labor exploitation. Both elements are important and need to be adequately addressed in efforts to reduce the problem." (Matthew Friedman, page 5)

decision to remain in an exploitative working conditions when other options become available, or to return to servitude after being “rescued” by an anti-trafficking program is commonly encountered by programs. The interplay between an individual's exercise of self-determination and his or her psychological health after being trafficked is a complex issue. A key consideration is the loss of control over the ability to make choices and take actions.

Degrees of Vulnerability

Tine Staermose (Sub-Regional Project on Anti-Trafficking in Children, ILO, Kathmandu) in her presentation on ILO's approach to combating trafficking in South Asia addressed the factors influencing the degree to which an individual is vulnerable to trafficking, and how these factors need to be considered in rehabilitation activities. The ILO Convention Number 182 of 1999, Article 3 (*Worst Forms of Child Labour*) declares that “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict” represent a set of practices prohibited by the convention.¹⁵ ILO Convention 158 guidelines protect children from exploitation

through the application of minimum age criteria (e.g., light work for ages 13-15 years if education is continued), compulsory education up to 15 years, and proscription of certain types of hazardous labor for children up to age 17 years.

The ILO Conventions govern actions that can be taken in the workplace, even though interventions take place in the family setting and public venues. Activities conducted in public venues are, by comparison with social services directed towards families, relatively more straightforward. For example, the identification of “free floating” or unaccompanied, abandoned children in a market place can be undertaken by the government and NGO programs. Intervening to protect a child from a dysfunctional family setting is more problematic. A first step is for programs to acknowledge that all families do not necessarily provide a protective environment against trafficking, and that relatives of the trafficked child may in fact be responsible for selling the child into servitude. This recognition carries implications for programs that strive to rehabilitate victims of trafficking and then reintegrate individuals back into their communities.

¹⁵Article 3(a); see *Stopping Forced Labour, A Global Report*, International Labour Conference, 89th Session 2001 Report I (B), International Labour Office, Geneva, ISBN 92-2-111948-3.

Trafficking of Minors

Muireann O Briain (ECPAT International, Bangkok) explored the special circumstances surrounding the trafficking of minors. She first articulated a “hidden agenda” of anti-trafficking programs that, in effect, serves the interest of preventing irregular migration, not ensuring rights. The sub-text behind many governmental programs is to simply stop people from migrating and, in the process, to stop individuals from becoming victims of traffickers. Thus “success” in preventing trafficking actually means stopping migration. The prevention of irregular migration is principally being addressed by the receiving countries, not the countries of origin. Actions taken by these destination countries most typically not only violate human rights standards but also do very little to stem the flow of irregular migrants, or to address the root causes that create conditions in which traffickers operate. As Muireann O Briain states, “in this scenario, children are just part of the landscape (and become) an added ‘nuisance’ factor” (O Briain, page 3). Children are more expensive and difficult to care for once they are rescued and more problematic to reintegrate or repatriate. States experience many difficulties in assuming responsibility for non-citizen minors and are therefore

often reluctant to assume any responsibility for their protection and care. NGOs can play an important role providing humanitarian services for this (sometimes) will-fully neglected group of trafficking victims.

The *Convention on the Rights of the Child* defines anyone under the age of 18 as being a child and subject to special measures of protection (conditions which are repeated in other international legal instruments). However, the *Convention on the Rights of the Child* mentions trafficking only in a general prohibition in Article 35, which says that states “shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of, or traffic in children for any purpose or in any form” (O Briain, page 5). This instrument, when coupled with the combined effect of the *Convention on the Rights of the Child*,

“For child trafficking, it is simply the act of the trafficker in the chain of movement that matters...the recruitment, transportation, transfer, harboring or receipt of the minor. The purpose of the action still has to be exploitation, but exploitation remains open to a wide interpretation.” (Muireann O Briain, page 7)

Trafficking Protocol, and the ILO *Convention 182 on the Worst Forms of Child Labour*, provides sufficient international legal precedent instruments to regulate state responsibility for the prevention of child trafficking. Issues of consent are integral to understanding the protection of minors, and the *Trafficking Protocol* addresses this concern in a positive manner for all parties, particularly for children. Because the victim is a minor, any transfer without the consent of the parent or guardian is illegal. As specified in the *Trafficking Protocol*, the consent of the victim (or the parent/guardian) is irrelevant if any of the means used to describe trafficking are present (e.g., threat, force, coercion, abduction, fraud, deception, abuse or power).

The lasting damage to children by trafficking is a concern for society. Children are being trafficked for sexual exploitation, domestic and farm labor, and are brought into forced conscription in armed conflicts. They are more vulnerable to HIV/AIDS and are also more likely to suffer emotional deprivation and psychological abuse that will shape them into dysfunctional adults, thereby perpetuating crimes against humanity in societies worldwide. In this arena the role of NGOs has become critically important and the role of

international legal instruments to guide the formulation of their programs is essential. As Muireann O Briain concludes, this does not mean that governments do not have an important role in child trafficking; it just means that “NGOs have taken on the work of protecting (children) because states have neither the will to allocate resources, nor the interest in doing so” (O Briain, page 3).

Phil Marshall (UN Interagency Project on Trafficking of Women and Children in the Mekong Sub-Region, Bangkok) commented on the papers in this session by describing a four-stage process of the trafficking of children and adults: pre-movement, movement, exploitation and post-exploitation. The pre-movement phase describes the forces that compel individuals to migrate and fall into trafficked situations. Many misconceptions or over-simplifications of the underlying causes of migration obscure the resources that are available to trafficked persons and their resiliency. For example, poverty is often cited as the reason for migration or accepting employment conditions of debt bondage, despite the common occurrence of migrants actually paying for transportation or transit services. A more refined analysis suggests that in many circumstances large disparities of income and wealth entice individuals to migrate, rather than absolute poverty that

pushes individuals away from their home communities. Clearly a number of “push” factors do exist that encourage individuals to migrate, including human nature (to look for opportunities to better one's life) and a breakdown of family or social structure, in addition to the more frequently cited reason of “poverty.”

Marshall described two types of anti-migration approaches that emerge in anti-trafficking policies that act to prevent or discourage movement: 1) prohibitive measures to constrain migration (e.g., lack of transparent immigration policies or procedures), and 2) expansion of choices to curb the desire to move (e.g., improving local circumstances through livelihoods and micro-enterprise development programs). The first approach limits human rights and is ineffective in stopping irregular migration or trafficking. The second approach is more constructive yet ultimately will have limited impact given the large disparities of economic opportunities that motivate migration for employment.

Programs that combat exploitation in the workplace are sometimes confounded by changes in the degree of control exercised by an individual over the exploitative circumstance. For example, circumstances that are forced upon an individual may become more accepted or benign over time, and ultimately may no longer be perceived as entrapment or servitude. Indeed, context-specific definitions of servitude or servile status are elusive for many settings, while overly generalized laws do little to promote a sense of rights and protection. After the exploitation has been stopped anti-trafficking programs are confronted with the difficult, and time-consuming task of rehabilitating the victim and then ensuring his or her reintegration into society. In this area of anti-trafficking activities, the experience gained by HIV/AIDS control programs can provide guidance. For example, lessons learned from conducting advocacy work to reduce stigmatization and creating support groups for HIV positive persons have direct parallels to creating conditions for ensuring the rights of returned persons.

IDENTIFYING INTERVENTION MODELS

Prevention, Care and Support, and Reintegration

IOM's Anti-Trafficking Approach

Lance Bonneau's (IOM, Bangkok) overview of the International Organization for Migration's anti-trafficking program placed these activities within the context of assisting states to reduce the flow of illegal or irregular migration (paper authored by Marco Antonio Gramegna and Ruben Korevaar). Contemporary border protection activities sometimes fail to manage illegal or irregular migration simply because agents have limited training and are only able to manage clearly defined migrant categories. Suspected trafficking cases are in fact quite difficult to identify at border crossings particularly if the trafficked person is not yet aware of the deception or fraud. The application of a definition of trafficking

“Today it is commonly agreed among governments and international agencies that a multi-pronged and multi-agency approach is the only response with any prospect of success in combating trafficking in persons, (i.e., with any prospect of matching the sophistication and multi-nationality of the trafficking networks).” (Marco Antonio Gramegna and Ruben Korevaar, page 1)

(such as contained in the *Trafficking Protocol*) requires specific parameters for identifying victims that can be linked with appropriate operational responses by border agents. Bonneau emphasized that only highly contextualized, individualized responses to the needs of trafficking victims will succeed. Rescue and reintegration efforts that are tailored to individuals require well-trained and experienced staff, indicating a substantial need for local capacity-building within governments as well as for NGOs.

Anti-Trafficking Programs in Bangladesh and Nepal

Anti-trafficking programs conducted in Bangladesh and Nepal were the subject of papers presented by Rina Sen Gupta (IOM, Dhaka) and Durga Ghimire (ABC, Nepal), and commented upon by Celine Costello Daly (Population Council, New Delhi). The material covered in these papers and the discussions which followed reveal that many NGOs in the South Asian region are working in the areas of prevention, rescue, care and support either as a principal activity or as an important aspect of a broader social development project. Activities to improve local conditions for women and children that also incorporate messages to reduce vulnerability to trafficking are being implemented by NGOs throughout South Asia, with varying levels of government support. For example, a

“In our South Asian region the problem of trafficking is very acute. The main purpose in our region for which women and children are trafficked is not only for forced prostitution, but also for legal and illegal work, legal and illegal marriages, organ trade, camel racing and bonded labor.” (Durga Ghimire, page 1)

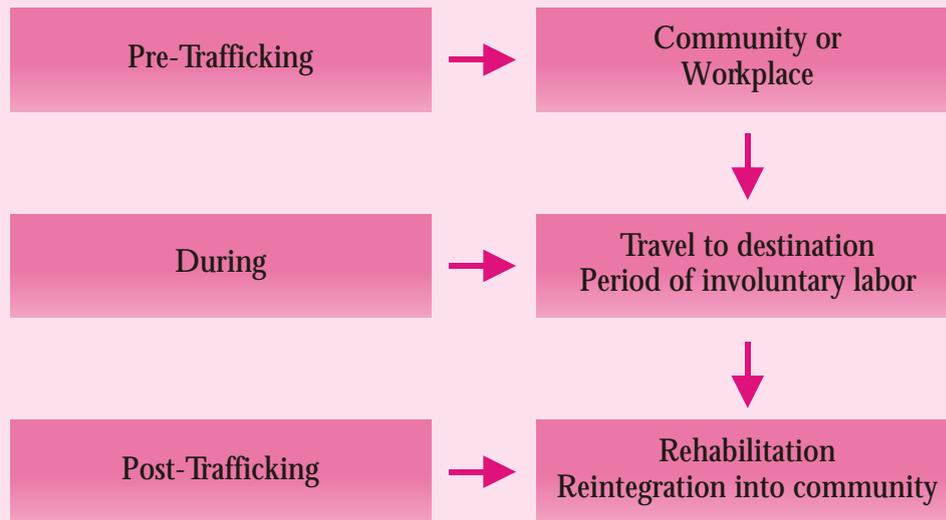
number of NGOs in Nepal, India and Bangladesh are conducting women's leadership training courses, family life education, livelihoods skill building programs for adolescent girls and the formation of women's cooperatives (for group savings and credit activities). These programs seek to improve conditions that have often been identified as being the underlying causes of trafficking.

NGOs in the region are also implementing programs that directly address the vulnerability of persons to trafficking. Awareness-raising activities directed at the general public (through street theatres, rallies and community meetings) and community leaders are common elements in many of the prevention programs.

Unfortunately, some community awareness-raising activities have inadvertently equated trafficking with HIV/AIDS and commercial sex work and exacerbated the stigma and discrimination of persons living with HIV/AIDS. Negative messages and scare-tactics, particularly content that conflates trafficking with HIV/AIDS need to be avoided. In general, more work needs to be done on creating localized definitions of people “vulnerable to trafficking.” Rina Sen Gupta's paper describes how local organizations such as the Bangladesh Women's Lawyers

Figure 3¹⁶

INTERVENTIONS ADDRESS DIFFERENT PHASES OF TRAFFICKING



Association have been engaged in these community-based activities, including working with local governments to increase the capacity of public institutions to understand trafficking and provide prevention services. The presentations and discussions also highlighted the important role of providing training to local law enforcement agencies.

Several programs address the needs of trafficked persons by providing services that take place either during rescue, rehabilitation or reintegration. Rescue-related activities are extremely problematic to implement due to the difficulties in evaluating ambiguous migrant categories,

coupled with the use of fraud and deception by the trafficker. As a result, programs that attempt to seize trafficking victims at the border invariably restrict women's rights or encourage corruption. Rescuing victims at the end point of the trafficked movement (e.g., workplace) reduces the risk of stopping legitimate migration. Rehabilitation-related activities are, by comparison, easier to implement. Durga Ghimire's paper identified characteristics of successful rehabilitation programs to include reducing isolation and avoiding circumstances that create stigma, providing medical care (including voluntary counseling and testing for HIV), educational services, linkages with

¹⁶Source: Celine Costello Daly (presentation)

livelihoods training and credit schemes, coupled with the creation of a safe-haven or residential facility. The review of NGO programs in Bangladesh and Nepal revealed the importance of counseling both girls and their parents as well as the need to provide professionally qualified psychological counseling services. Unfortunately, the creation of shelters and safe areas has been found, in some instances, to isolate trafficked persons and contribute to (instead of reducing) stigmatization.

Moving a trafficked person out of rehabilitation and back into society can be complicated if a dysfunctional family or failed social support system in the communities contributed to the original trafficking event. This is particularly the case with minors, but is also an important consideration for older victims. Clear, operational definitions of successful reintegration are generally lacking; this may be a contributing reason for the scarcity of effective reintegration models in the South Asian region, particularly for children who may have been sold into servitude by their families. In addition, there are other concerns about the capacity of NGOs to provide needed services. As NGOs become more individualized in the delivery of the rehabilitation and reintegration services, their programs become smaller and the

impact is limited to relatively few beneficiaries. Rehabilitation program models that can provide individualized attention to larger numbers of trafficked persons need to be developed. The creation of networks of localized NGOs and linkages with government schemes was indicated as a promising approach. The dilemma of how to reach large numbers of trafficked persons with personalized care and support and reintegration services is an outstanding issue that has not been adequately resolved in South Asian programs.

Law Reform, Advocacy and Prosecution

Obstacles to Successful Prosecution of Traffickers

In contrast to the task of moving the highly individualized but limited work of NGOs to a larger scale, legal efforts to identify and prosecute traffickers suffer from problems associated with over-generalization and need to shift attention to a narrower spectrum of specific violations of a person's rights. In her presentation of Ratna Kapur's paper, Roshni Basu (Centre for Feminist Legal Research, New Delhi) characterized two broad themes that hinder the development of effective law reform and prosecution in South Asia: 1) the widespread tendency to equate trafficking

with irregular migration, and 2) the tendency to equate trafficking with sex work. Both are the consequence of pervasive gender biases in the region. When trafficking is equated with irregular migration, estimates of trafficked persons are substantially inflated and unreliable. When trafficking is equated with sex work, legal initiatives assume moralistic tones. Both instances of conflation serve to restrict, rather than to promote the human rights of trafficked persons and hinder the development of appropriate legal responses by states in the region.

Gender bias also affects the manner in which laws are interpreted and prosecution-related investigations are conducted. The pervasive pro-male bias in South Asia creates a context that assumes women and girls need both control and protection from either an adult male or the state (which is male dominated). Furthermore, certain women's rights (e.g., freedom of movement) may be willfully sacrificed for perceptions of their greater good. These are not abstract concerns but are in response to actual state laws and regional conventions. For example, the South Asian Association for Regional Cooperation (SAARC) draft Convention on Trafficking¹⁷ treats consent as irrelevant and criminalizes any movement related to the sale or procurement of

“... Anti-trafficking measures have made (a woman's right to cross borders) contingent on the nature of the work they choose to do, rather than (being) concerned primarily with the conditions under which they cross borders.” (Ratna Kapur, page 11)

women, even when an adult woman may have given her consent and even payment for the purposes of migration or debt bonded labor. Ratna Kapur also draws attention to how international NGOs' actions have sometimes compromised women's legitimate interests in migrating in their advocacy of protecting women. Human Rights Watch recently advised the governments of Nepal and India to establish a strict system of border patrol to “guard against the trafficking in women and girls,”¹⁸ despite the obvious risks of stopping the voluntary migration of women as a consequence of state-sponsored punitive measures.

These concerns notwithstanding, there is a compelling need to make the trafficking of persons a risky business, as Nandita Baruah (UNIFEM, New Delhi) noted in her comments. Instances of police corruption are rarely acknowledged or dealt with in a

¹⁷*The South Asian Association for Regional Cooperation draft “Convention on Preventing and Combating Trafficking in Women and Children, SAARC/SUMMIT 10/CM.20.3, cited in Ratna Kapur, page 4.*

public manner but have an important impact on enforcement. Police investigative work on trafficking is a time-consuming task, yet as a consequence of the extreme gender biases that influence how crimes against women are investigated (particularly women who may have been engaged in sex work), this type of case-work is not a priority. The activities of Lawyers for Human Rights and Legal Aide in Pakistan, described by Zia Ahmed Awan (LHRA, Karachi), is a good example of how local NGOs can work effectively with law enforcement agencies to provide training in human rights and increase local capacity to manage migration in cases that are not so clear cut.

Contrary to the situation in Pakistan (where Zia Ahmed Awan concludes that there is an absence of laws that directly address trafficking), Nepal has specific legal measures in place that are combined with extraordinary steps taken in their enforcement. Sapana Pradhan Malla's (Forum for Women, Law and Development, Kathmandu) paper reveals that the special attention given to trafficking in Nepal has actually impeded the effective prosecution of many cases in the country. The Nepali Human Trafficking (Control) Act of 1986 was intended to expedite action on what was perceived as a grave problem. This legislation includes the formulation of a

special court in Kathmandu (created by a December 2000 Royal Magisterial Act and the institution of special "women's crime cells" within district police units). However, the special court and women's crime cells have served to isolate the legal venues where cases can be investigated and brought forward, and have actually resulted in fewer, not more, cases being brought to successful prosecution. Malla's work also points out that a high rate of acquittal in Nepal after appeal in the higher courts is probably due to the judicial restraint in convictions that carry a mandated severe penalty. In addition, there has been a perceptible shift in the burden of proof to the victim in Nepali trafficking cases, with public testimony required for conviction. The socio-legal environment is such that all trafficked women are labelled as prostitutes, with victims commonly reporting that they have suffered harassment in police stations and even in courts. The experience reported on from Nepal indicates the importance of developing local law enforcement capacity to adequately investigate trafficking. Police and state attorneys need training to increase their skills and abilities to identify and act in suspected trafficking cases in a manner that protects the victims' rights while at the same time expediting prosecution of the implicated agents.

¹⁸*The Human Rights Watch Global Report on Women's Human Rights* (1995), cited in Ratna. Kapur, page 9.

Illegal Labor and the Commercial Exploitation of Children

Child Trafficking: Complexities and Coalitions

The management of trafficked children is at once a more straightforward and more complex issue than it is for older victims. The limited ability of children to provide consent for themselves coupled with agreed-upon international guidelines governing child labor make it easier to identify situations where children (as opposed to adults) are living and working in servile status. For example, while an adult woman may or may not be in a position to voluntarily engage in commercial sex work, a girl of 15 or 16 is legally incapable of making that decision. In contrast to adults, the dependency of children and their vulnerabilities make the provision of care and support services more demanding, and their reintegration into the community more challenging. This session of the Technical Consultative Meeting examined contemporary intervention models that NGOs and governments have in place to address the special needs of trafficked children.

Forced sexual exploitation of both girls and boys occurs in most cases of trafficking,

even in settings where children are working for other purposes. Although pedophiles have always existed there is a perception among agencies working in the region, particularly in Sri Lanka, that recently the problem is acknowledged more openly by state and civil society actors than it has in the past. Detection and reporting of cases in many settings is clearly increasing, adding to the media reports of a rise in the incidence of child trafficking. However, sexual exploitation is not the only outcome of trafficking in children. Harendra de Silva's (National Child Protection Authority, Colombo) review of program models in Sri Lanka highlighted the disturbing occurrence of forced conscription of young boys into the army, and the increased vulnerability of refugee children from war-ravaged areas to become victims of bonded labor and domestic servitude as well as commercial sex work.

The need for coordination and cooperation between agencies working to prevent trafficking became acute in Sri Lanka during the 1990s as the number of agencies and programs increased. Programs began competing for funding and focused on establishing differences in their priorities and activities, with the result that the development of anti-trafficking policy risked set-backs. Harendra de Silva discussed how recent initiatives have begun to embrace the

need for cooperation between the state and NGO sectors. The National Child Protection Authority (NCPA) in Sri Lanka is a model program of how NGOs, academics, governmental agencies and political leaders can be brought together in a consultative framework to advise the government and undertake complementary activities. The Sri Lankan NCPA works in four areas: 1) awareness-raising about child trafficking; 2) capacity-building of a variety of professions working with child abuse; 3) legal reforms and monitoring enforcement; and 4) protection and rehabilitation of trafficking victims. International donors have been engaged in supporting activities through the NCPA on a number of issues, including the creation of district child protection committees that increase awareness among communities and develop the capacity of local law enforcement and government officials. The National Task Force on Trafficking in Sri Lanka is another example of how an effective forum for consolidating policy advice from highly credible sources can be created.

Mizanur Rahman (ATSEC, Dhaka) described the usefulness of a broad-based national coalition of NGOs working on trafficking in Bangladesh. The Action against Trafficking and Sexual Exploitation of Children (ATSEC) network was launched in 1998 for many of the same

reasons articulated by Harendra de Silva's assessment of the Sri Lankan situation (e.g., unproductive competition for resources and a lack of coordination of activities). ATSEC members have made good use of trafficking mapping surveys to identify areas of Bangladesh that are prone to trafficking, either as places of origin or border crossing, and to coordinate their responses. Based on these analyses a number of programs have been created that work to increase local government and community awareness of trafficking and to develop the capacity of local institutions to identify and protect trafficked children. Workshops and meetings for government officials, community leaders, school teachers, medical

“Trafficking in children is only a manifestation of a deeper problem in a society that has lost the ability to care for its children; a community that is either ignorant of the exploitation or does not feel shame in trading its children for gain; where men and women have lost the meaning of life. In all of the identified source areas... one finds that trafficking in women and children is a consequence of violence that is perpetrated against them.” (Indrani Sinha and Roop Sen, page 6)

professionals and other community leaders in districts and thanas have been produced through ASTEC programs. The emphasis on awareness-raising among local constituencies in Bangladesh is necessary because, in contrast to Sri Lanka, trafficking of children in Bangladesh is relatively unacknowledged or seldom discussed in public discourse. Consequently, ATSEC members have worked to integrate informational messages and other communication activities (e.g., theatre, media campaigns) into other community development programs undertaken by the vibrant NGO sector in Bangladesh. This strategy has proven successful for achieving a larger scale of work than could be achieved by any single NGO.

Indrani Sinha and Roop Sen (ECPAT, Calcutta) also addressed the theme of coordination between different actors working on child trafficking in India. Although formal networks or national NGO coordinating bodies were not described in their paper, they stressed that local coordination between law enforcement and NGOs is a necessary precondition for effective child trafficking programs. While the rescue of trafficked children is a primarily a state responsibility, the experience in India demonstrates that NGOs can play an important role in

identifying and reporting cases where children are held in servitude. This is due partially to the special attention and increased awareness of local NGOs to the social conditions of their communities. “Violence against children, especially girl children in the form of marriage and child pregnancy, has become socialized and ignored by the *panchayat* (local government council) and the police” (Sinha and Sen, page 6).

After minors are removed from these settings, NGOs are better equipped than local government services to provide care and shelter. In cases where state-run homes are used to house victims while waiting for their cases to come to court (which can unfortunately take a very long time during which the child's rights are abused and personal needs are ignored), programs like the State Remand Home in Liluah (West Bengal, India) work with local NGOs to provide health and psychological care to the victimized children (including treatment of STIs, counseling about HIV/AIDS and post-traumatic stress disorder therapy).

The care, support and reintegration of the trafficked child require the sustained involvement of caring agencies if programs are to succeed. The girl child needs to choose among the options of seeking social legitimacy through marriage, while being

placed in a setting that provides protection from a brothel owner. She cannot be returned to the dysfunctional family or community that sold her into trafficking in the first place. Long-term programs are needed that permit rescued children to engage in the process of developing social and livelihood skills; these skills will eventually act as protective factors as

children grow and mature. For this process to work, however, sufficient resources are necessary to sustain skill-building and nurturing programs over time without interruption. In addition, agencies working in the field of child trafficking require an ideological orientation to uphold human rights and combat gender and caste-based discrimination.

IDENTIFYING PROGRAM EVALUATION METHODOLOGIES

The monitoring and evaluation of anti-trafficking programs is a complex undertaking. Program interventions operate in multiple sectors (law, health, social, vocational) and at different stages of the trafficking continuum (before, during, after; prevention, seizure, care and support, reintegration). Minors and adults are involved, as are citizens and non-citizens. These complexities notwithstanding, certain principles of program design and operations do apply to the implementation of anti-trafficking activities and facilitate their evaluation. In general, clearly defined objectives that are linked to specific activities greatly facilitate program operation and serve as evaluation indicators. Program evaluation will be more feasible if objectives are discrete and time-bound (e.g., in regard to raising awareness of trafficking: “After one year *panchayat* members will be able to name three ways local children can be

trafficked into commercial sex work”) as opposed to unspecified and open-ended (e.g., to improve community awareness of trafficking). To the extent that South Asian NGOs incorporate clear objectives into their operations, their activities will also benefit from more effective management and reporting. Along these lines, Philp Guest (Population Council, Bangkok) presented a standard model for describing the components of program operations and outcomes. This model was originally developed within the health care field, but can be applied to anti-trafficking programs.¹⁹ This framework, which describes pathways related to inputs, processes, outputs and outcomes, is summarized in the table below.

Definitions of Input, Process, Output and Outcomes

- Input:** Materials, supplies, equipment, human and financial resources (costs and quantities)
- Process:** Utilization of inputs through dynamic system analysis of management and operational procedures, including both quantitative indicators (level of effort, intensity of resource utilization) and subjective assessment (quality of implementation, adjustments to

¹⁹ *Handbook of Indicators for Family Planning Program Evaluation*, Ian Bertrand, Robert Magnani and James Knowks, The Evaluation Project, Carolina Population Center, University of North Carolina of Chapel Hill, 1994

changes in the environment, management style, stakeholder response)

Output: Quantifiable data that report on program performance (e.g., activities conducted, services utilized, persons served, commodities distributed)

Outcome: Two classes of outcomes are utilized: long-term (e.g., successful reintegration of returned trafficked persons after a specific time period following rescue) and immediate (e.g., increased awareness of debt bondage and servitude among domestic workers and women considering work-related migration opportunities). Two types of endpoints can be included: those that are program-related (e.g., quality of human rights-oriented training on trafficking for local law enforcement officials) and changes in knowledge and attitudes of the population (e.g., awareness of commercial sexual exploitation of children)

Monitoring and Evaluation Methodologies

Given the range of the program elements and the diversity of the population groups that are engaged in anti-trafficking programs, multiple methods of data collection are needed to monitor performance and evaluate impact of NGO activities. Monitoring and evaluation activities need to be developed that are specific to the intervention and setting, and are appropriate to the amount of resources expended on evaluation vis-a-vis the program and its anticipated impact. The use of qualitative or participatory research methods is encouraged, for some activities, in addition to standardized survey techniques. The small-scale, highly individualized context of care and support and reintegration activities undertaken by many NGOs indicate that qualitative, or even participatory, research methods are appropriate. Another proposed research method is the use of micro-economic data collection and analysis techniques. Methods to estimate the costs of program elements will be needed when successful interventions begin to be replicated and scaled up.

The following table provides an overview of the principle data collection methods and general approaches to designing program evaluations of anti-

trafficking programs that were discussed during the Technical Consultative Meeting.

OVERVIEW OF MONITORING AND EVALUATION METHODS

Indicator / Dimension	Research Method
Input	<ul style="list-style-type: none">- Itemization of the different materials, supplies, equipment and human resources (including time) required by the program, specifying (if possible) unit costs associated with each type of resource- Tracking the use of resources for start-up activities as opposed to maintenance of the program
Process	<ul style="list-style-type: none">- Content review of program documents- Unstructured interviews with program staff at different organizational levels- Structured observation of the implementation of different activities- Case studies constructed from observations and in-depth interviews- Participatory evaluation techniques that involve staff and subjects of the program to describe the process of implementation
Output	<ul style="list-style-type: none">- Summaries of management information systems, activity reports- Participatory evaluation techniques that involve subjects of the program in describing the activities and services provided by the intervention- Content review of relevant documents, publications and products (electronic and print)

Indicator / Dimension	Research Method
Outcome: Intermediate	<ul style="list-style-type: none"> - Exit interviews in facility-based programs (e.g., shelters, homes, schools, clinics, workplace or other types of venues) - Standardized, quantitative population-based sample survey techniques - Quasi-experimental study designs, including comparison groups and panel study approach (if possible) - Participatory evaluation techniques that involve subjects of the program in describing the activities and services provided by the intervention - Cost studies related to identifying the marginal costs of different program elements
Outcome: Long-Term	<ul style="list-style-type: none"> - Linking with national HIV/AIDS behavioral surveillance programs, Centers for Disease Control Reproductive Health Surveys - MEASURE DHS core questionnaire and adaptation of add-on modules (e.g., “Women’s Empowerment and Violence Module”) - Other national level surveys funded by host government or international agencies that involve measurement of trafficking-related indicators

Evaluation Indicators

The conceptual framework and research methods for evaluating anti-trafficking programs has not been field tested with South Asian NGOs, although the general relevance of the model to a wide variety of public health and social development programs is well recognized. The conduct of program evaluation activities using this framework was explored by the Technical Consultative Meeting through a series of group discussions. Illustrative listing of

indicators, data sources and potential research methods were proposed that are modeled on the process, output, intermediate outcome, long-term outcome framework. The results of this exercise (summarized in the table below) clearly indicated the feasibility of conducting scientifically rigorous evaluation of many different types of anti-trafficking program activities.

ILLUSTRATIVE LISTING OF SAMPLE PROGRAM EVALUATION

Indicator Definition	Level	Reference Group	Data Source	Research Method
Allocation of government resources / services related to ILO 182 Agenda of Action	Process	Governmental social services	Governmental budgets	Content analysis
% of children or adults who participate in an ILO 182 or Stockholm Agenda of Action program	Output	Children, adolescents or adults resident in a specified community served by referenced program	All residents of target age living in defined communities	Sample survey; participatory evaluation methods
Training course including specific modules on trafficking, human rights	Process	Training program participants (e.g., diverse groups, including community development agents, law enforcement officials, adolescent RH or HIV/AIDS training course)	Training program documents	Content analysis; unstructured interviews; participant evaluation methods (qualitative)

Indicator Definition	Level	Reference Group	Data Source	Research Method
% of training course participants who can define and describe human rights and are able to apply human rights standards related to trafficking in their work	Output	Training program participants (e.g., diverse groups, including community development agents, law enforcement officials, adolescent RH or HIV/AIDS training course)	Interviews with training course participants	Sample survey; participatory evaluation methods
% of investigations that are of an acceptable standard (pre-determined by rights-oriented NGOs & agencies)	Immediate outcome	Law enforcement officials	Police records; victims	Interviews with victims; content analysis of police records
% of cases that are publicly reported	Immediate outcome	Reported cases of trafficking	Police records	Content analysis of police records
Number of awareness raising events in community, through media, inter-personal communication and training seminars	Process	Communication program designed on audience analysis and strategic framework of identifying key stakeholders	Individuals representing different segments of audiences	Participatory evaluation techniques; Focus Group Discussions; In-depth interviews

Indicator Definition	Level	Reference Group	Data Source	Research Method
% of target audience who were exposed to awareness-raising information activities and remember messages (print, theatre, mass media)	Output	Adults who are considering work-related migration; vulnerable youth	Community members in areas where awareness raising activities were conducted	Sample survey
% of community leaders who can describe out-of-school youths' vulnerability to trafficking	Immediate outcome	Local government officials, religious figures, traditional leaders	Community leaders	Sample survey of key leaders
Number of contacts made to alert a program or government agency about children in servitude or sexual exploitation (e.g., via hotline, internet site, NGO or law enforcement office)	Immediate outcome	Community members who were exposed to informational messages about the existence of contact point for trafficked children	All possible community members with access to the point of contact	Sample survey; participatory evaluation methods

Indicator Definition	Level	Reference Group	Data Source	Research Method
Number of children and adults removed from a place of exploitation (e.g., domestic servitude, workplace, brothels or militia groups) without endangering others not rescued	Medium-term outcome	Trafficking victims who were identified and rescued by a participating program	Reports of participating programs; interviews with purposively selected beneficiaries of participating programs	Content analysis of program reports; participatory evaluation methods; In-depth interviews; Case studies
Number of identified and seized trafficking victims who have been placed in an appropriate setting for care and support, rehabilitation	Medium-term outcome	Trafficking victims who have been served by a participating program	Interviews with purposively selected beneficiaries of participating programs	Participatory evaluation methods; In-depth interviews; Case studies
Number of successfully reintegrated trafficking victims as measured 12, 24 months after their initial reintegration	Long-term outcome	Trafficking victims who have been served by a participating program	Interviews with purposively selected beneficiaries of participating programs	Participatory evaluation methods; In-depth interviews; Case studies

THE WAY FORWARD- RECOMMENDATIONS AND NEXT STEPS

The deliberations of the Technical Consultative Meeting produced a consensus of opinion on several points, even though the participants did not formally adopt specific recommendations. Foremost among these points of agreement is that a sufficient level of conceptual clarity exists on the definition of what constitutes trafficking to move ahead with the delivery of programs, both governmental and non-governmental. Attention needs to be focused on examining the outcomes or endpoints of the trafficking process and upholding the internationally agreed upon rights of both citizens and non-citizens for due process and humane treatment. There is a need for capacity building in terms of understanding and applying human rights among state and civil society actors, including border patrol agents and local law enforcement officials. The creation of new laws governing trafficking, particularly the contemporary

law reform initiatives in some South Asian countries, have resulted in proposed legislation that is over-generalized and, if enacted, will actually limit the rights of women to migrate for work rather than protect their rights for self-determination. Existing laws need to be enforced in an equitable manner.

The review of programs that seek to prevent trafficking, identify, seize, rehabilitate and reintegrate victims demonstrated several progressive and successful activities. The important role for non-governmental organizations was emphasized, though the close coordination with governmental agencies (particularly law enforcement officials and the judicial branch) is essential to ensure the protection of a victim's rights. The presentations revealed an unresolved tension in deciding how to reconcile small-scale programs that provide highly contextualized and tailored solutions for individual victims with the pressing need to conduct large-scale programs that will meet the needs of the increasing number of victims. The creation of NGO networks in Bangladesh and Sri Lanka hold promise for achieving a coordinated set of program activities that may be able to ensure focused attention in a larger system.

The challenge for many of the programs in the South Asian region will be to increase the level of sophistication that is used in designing, evaluating and reporting on their activities. The definition of short- and long-term objectives need to be made explicit and then linked to specific activities and also used as evaluation indicators. Conceptual models specifying the theoretical effects of the program elements need to be elaborated then refined through research. The specification and measurement of evaluation indicators is a pressing need for anti-trafficking programs. The distinction between intentions and actual impact is blurred, and operational definitions are required to clarify such

critical indicators as “acceptable standards of investigation by police” and “appropriate placement of reintegrated victims,” among others. The scientific principles and processes described in this meeting can help develop more systematic evaluation processes for anti-trafficking programs in South Asia. The next step is therefore clear. Evaluation indicators need to be elaborated and applied so that others may learn from successful activities, and the field may advance. Critical analysis of these programs based on these evaluation exercises will be most useful in ensuring the protection of human rights while combating the incidence of trafficking among South Asian men, women and children.

PAPERS PRESENTED

For copies of papers please direct responses to the principal author (refer to list of participants for complete contact information).

Awan, Zia Ahmed

Human Trafficking Has Become a Real Problem in South Asian Countries including Pakistan

Chew, Lin

Addressing Trafficking in Persons in the Human Rights Framework

De Silva, Harendra

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Friedman, S. Matthew

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Gramegna, Marco Antonio and Ruben Korevaar

Trafficking Prevention, Protection and Assistance to Victims (presented by Lance Bonneau)

Gupta, Rita Sen

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O Briain, Muireann

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Sanghera, Jyoti

Towards the Construction of an Empowered Subject: A Human Rights Analysis of Anti-Trafficking Legal Interventions and Trends in South Asia

Sinha, Indrani and Sen Roop

Programme Models in India Combating Trafficking in Children for Commercial Sexual Exploitation and Illegal Labour

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