

**“The 3<sup>rd</sup> Session of the Sub-Regional Advisory Committee (SURAC) of the ILO Mekong Project to Combat Trafficking in Children and Women (TICW)- “Policy Mainstreaming: The Labour and Employment Perspective in Taking Action Against Human Trafficking”**

**Address by:**

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**President Malaysian Trades Union Congress**

**On 8 – 9 September 2005**

**Bangkok, Thailand.**

First, let me thank you for allowing me the honor of sharing with you our information and analyses on this very important issue of human rights, particularly that of women and children.

To us, it showed a historical lack of appreciation of women’s human rights in general, and the urgency to criminalize trafficking in women and children, in particular.

Let me first define trafficking in persons. The UN Protocol on to Prevent, Suppress and punish Trafficking in Persons, Especially Women and Children defines trafficking as the recruitment, transportation, transfer, harbouring 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 purpose of exploitation.

The forms of trafficking also range from the trafficking in the guise of employment, the bride trade, trafficking to sexual exploitation, particularly prostitution and pornography, trafficking of children to armed conflict and others.

Trafficking of women and children happens within and across borders and the profile of victims is the same: they are young, mostly single.

The context of trafficking is poverty. As the country struggles amid globalization efforts, many migrate. Women particularly bear the pressure of finding alternatives for their families’ survival. Thus, migration for work - to the cities or overseas - is an option for the desperate. Then, as migration continues to be exploited by many sectors, especially recruitment agencies, it becomes the easiest channel for trafficking women and children. There is a high rate of internal or domestic trafficking, where most victims come from the rural areas and are brought to the cities of the country.

The victims are as young as 14 years old, have not finished high school and come from poor families. Many are also victims of abuse early in their lives.

Poverty and lack of economic opportunity make women and children potential victims of traffickers associated with international criminal organizations. They are vulnerable to false promises of job opportunities in other countries. Many of those who accept these offers from what appear to be legitimate sources find themselves in situations where their documents are destroyed, their selves or their families threatened with harm, or they are bonded by a debt that they have no chance of repaying.

Forms of trafficking that can be gleaned from the various national data in Asia are the bride trade, sex tourism, military prostitution, and trafficking in the guise of overseas employment or adoption.

While the victim is the one often seen in trafficking, there are several actors, who exploit that have to be named - recruiter, pimp, conniving airport officials, immigration officials, establishment owner in destination countries, buyers, governments that consider overseas migration as primary employment strategy, and governments that earn from the sex industry.

The above trends also show that:

- Trafficking happens mainly in conjunction with prostitution.
- The 'consent' of the victim is immaterial. And this is affirmed by the UN Protocol on Trafficking.
- Gender inequality, racism and impoverishment of women are the core of the trafficking phenomenon.
- There are conscious actors in trafficking, as named, that should be held accountable for it as a crime.

Trafficking is a violation of the following fundamental rights:

- Right to liberty and security of person;
- Right not to be subjected from cruel, inhuman and degrading treatment;
- Right to freedom of movement;
- Right to freedom from discrimination;
- Right to the highest standard attainable of physical and mental health;
- Right to equal protection under the law;
- Right to sexual integrity and autonomy;

Recommendations in the local level:

- Lobby for the passage of the anti-trafficking bill.
- Passage of a local ordinance adopting the framework of the proposed anti-trafficking law.
- Inter-agency network that includes NGOs and survivors representatives
- Education in local communities on how to spot an illegal recruiter or trafficker
- Institutionalization of services by agencies that are responsive to reports on illegal recruitment and trafficking, and are also accessible to the communities.
- Government to introduce various programmes and strategies which provide job training and work with civil society and private sector to ensure that children and women vulnerable to the commercial sex trade get the chance to better themselves through education and peaceful employment, so that they are less easily recruited by the traffickers.
- We urge the respective embassies to advise their national to ensure that their employment agencies are reliable and registered and that they are aware of their rights to engage only in the occupation for which they have mutually agreed to before leaving their country.

- Local vigilance or watch groups could be set up to assist authorities in rescuing young women and children and nabbing traffickers or their agents.
- Religious and community leaders can help to educate children, women and their families on the dangers of trafficking.

#### Challenges:

- Addressing the demand side
- Providing alternatives to survivors

There is little doubt today that the home and family environment of a child plays an important role in the child's educational achievement. The illegal participation of children in the labour force is intimately bound up with the broader problem of poverty, and the high incidence of large families among the Malaysian poor. Most child workers come from large families with meager incomes, often having had a bare minimum of formal education.

Malaysia is primarily a country of destination for victims of trafficking. Women and girls have been found to be trafficked to Malaysian brothels, karaoke bars, and other clandestine sex establishments. These women are also trafficked for domestic labor. Often times, women are lured by false promises of high paying jobs such as waitresses or domestic servants, and then are forced into prostitution by criminal gangs. Children have been lured by agents and forced to beg in the streets.

There is high social acceptance of **child** labour and **child trafficking** since the children have to and are also expected to contribute to the family income (a necessity for survival).

**Child trafficking** in Southeast Asia exists in the form of domestic trade within the borders of a country as well as cross-border trade between the countries.

All the countries are affected by this cross-border trade, either as the country of origin, the destination or as the country of transit

Malaysian women who were victims of trafficking were almost exclusively ethnic Chinese, although ethnic Malay and ethnic Indian women worked as prostitutes domestically. Police and NGOs believed that criminal syndicates were behind most of the trafficking. During the year, the Malaysian Chinese Association's social services department reported that the number of Malaysian women trafficked to other countries declined compared to previous years.<sup>1</sup>

Malaysia is also a transit country between Thailand and the Philippines and countries of destination such as Japan, Korea, and the United States.

The government acknowledges that trafficking is a problem and enacts most of its anti-trafficking measures in the context of its fight against illegal migration. Officials are only slowly recognizing the importance of foreign victim protection.<sup>2</sup>

Police often raid brothels, however, there are few opportunities for trafficked individuals to be able to stay in Malaysia, and they are usually deported because they have violated other laws, such as not having identification documents and/or overstaying visa limits. Although public awareness has grown about the issues surrounding trafficking in women, and government officials are beginning to address

the problem more formally, a great deal more training needs to take place on the part of the police so that they do not treat victims as criminals.

Prostitution is illegal in Malaysia. [The Women and Girls Protection Act of 1973](#) is a comprehensive law which prohibits procurement of a female for the purpose of prostitution either inside the country or else where. Trafficking in female persons is also prohibited in this Act; however, some agree that anti-trafficking measures should be undertaken in a separate act with higher penalties for the traffickers.<sup>3</sup>

Trafficking in women and children is a modern day form of slavery and slave trading. It is a human rights violation which deserves an urgent respond. Traffickers violate the universal rights of all persons to life, liberty and freedom. It is an obstacle to the achievement of the objectives of equality and development. Trafficking is, as the International Labour Organization (ILO) points out, the “underside of globalization”. No country is immune from trafficking. It has become a transnational crime of which women and children are the most vulnerable.

Trafficking thrives because of its profitability and the continuing high demand for sexual services. Due to the clandestine nature of this crime - underground and often under - acknowledged, it is almost near impossible to determine the precise number of people who are victimized by traffickers. In Malaysia too it is difficult to ascertain the exact or even an estimated number who are trafficked into or trafficked out of the country. Some estimates show that every year 1 to 2 million people are trafficked worldwide, of which 225,000 are from South Asia. Other estimates show that over the last 30 years, trafficking for sexual exploitation alone has victimized some 30 million women and children of Asia. Malaysia seems to be an attractive country for foreign women from both near and far - from our ASEAN neighbours to as far as the African and European continent. These women have heard of success stories, displays of wealth and remittance sent back home from relatives and friends working abroad which is a powerful incentive for other girls and women to seek jobs in this country Worldwide-travel has increased more than seven fold since 1960. Whilst it may be true that the tourism industry cannot be held accountable for the behaviour of its clients, we have to be vigilant and recognize situations where children and young women are trafficked for sexual purposes. Estimates put the number of children entering the sex-market every year at well above one million. Tourism must respect the rights of women and children and we need to remind tourism and labour agencies that hospitality does not call for the sexual exploitation of women and children. We should endeavour to provide every assistance to support the work and campaigns of the various organizations concerned with the welfare of child victims of sex tourism and to help restore their physical and mental health and above all their dignity and self worth. We can learn from the good practices of some countries.

In Malaysia, although there is no specific action plan pertaining to human trafficking, there are sufficient laws to deal with rape, kidnapping, abduction, criminal assault and commercial sex trade. What is lacking, perhaps, the political will to act and greater awareness and enforcement by the authorities? Trafficking will undoubtedly proliferate when there is no serious challenge by law enforcement officials and agencies. This silent crime will continue.

Trafficking of women and girls is a national and international problem. We have little hope of preventing trafficking of women and girls if the traffickers and their agents as well as owners or employers of entertainment establishments are left at large and not

prosecuted. It is, therefore, vital for the authorities to act both nationally and internationally so that, over time people will see there is no impunity for such crimes.

Governments that are determined to crack down on trafficking organizations have to win the confidence of the victims, who are often the best informants as to the details of trafficking operations. Protecting the identity of victims and providing for their safety are crucial to effective prosecution of traffickers. Laws and procedures that protect victims will encourage them to come forward and testify against traffickers and their organizations.

Protection is also an important part of the process of rehabilitation and reintegration of the victim. There is a need to support the work of both national and international non-governmental organizations that are working to provide shelters and rehabilitation services for victims of trafficking. Governmental agencies alone cannot fill the protection needs of all trafficked persons. The NGOs are especially important to support the rescued victim who is transported back to her home country for rehabilitation and reintegration.

Towards this end, the embassies and NGOs can help to uncover information such as traffickers' names and addresses from the victims and provide such information to the police and other enforcement authorities. In this regard we would like to suggest that where there is clear evidence that the girls have been trafficked, smuggled or cheated into prostitution the victims should not be prosecuted but sent back to their home country as soon as possible. They should not be detained for indefinite period of time and made to languish in prisons or detention centres.

We need also to devise innovative ways to identify victims of trafficking, encourage them to come forward to report traffickers, and to cooperate with enforcement agencies as available witnesses. Monitoring of country borders also requires a great deal more effort to identify traffickers and potential victims. For example, former victims could work together with officials to identify potential victims and traffickers at key crossing points.

Perhaps a good start too would be for Malaysia to ratify the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children as this provides clear norms and standards for all States to work towards the three-fold objective to prevent and combat trafficking and to promote and facilitate a global network of information sharing. The prevalence of countries in which trafficking takes place in the Asia Pacific region amplifies the need for the ratification of the Trafficking Protocol. Ratification would encourage countries of origin, transit and destination to recognize their role in combating the problem and find solutions for action.

Measures that are introduced to combat trafficking must take into account the securing and promoting of human rights of trafficked persons. It is important to ensure that victims are not revictimised. Rescued women and children should be treated as victims of crime, not as criminals and every effort should be made to rehabilitate them and to reintegrate them into their family and society. Police and enforcement personnel need to be trained in dealing with victims of trafficking.

Victims of human trafficking face major problems being reintegrated into their home communities when they are freed from the situation into which they were trafficked. Social stigma and personal emotional scars must be overcome during the process of

reintegration. Victimized women may have been treated by law authorities as criminals, either for prostitution or illegal migration, and, therefore face additional problems of employment or other forms of reintegration. Assisting victims to resettle and start a new life is a daunting challenge for concerned governmental agencies and NGOs. In addition to psychological and social considerations, the victim faces the practical financial consideration of providing for life's essentials.

Due to the highly clandestine nature of the crime of human trafficking, the great majority of human trafficking cases go unreported and culprits remain at large. There are reports that many human traffickers are associated with international criminal organizations and are, therefore, highly mobile and difficult to prosecute. Sometimes members of the local law enforcement agencies are involved in the lucrative business of illegal exportation or importation of human beings. Prosecution is further complicated by victims of trafficking being afraid to testify against traffickers out of fear for their and their family members' lives.

In order to combat the globalization of this criminal behavior, international policies and practices that encourage civil participation and cooperation with trafficking victims in the prosecution of traffickers have to be developed. Human trafficking laws must provide serious penalties against traffickers, including provisions for the confiscation of property and compensation for victims. At the same time, training is needed to ensure that an insensitive investigation and prosecution process does not further traumatize trafficking victims.

Technical cooperation among countries and international law enforcement agencies is essential for investigating the extent and forms of trafficking and documenting activities of international criminal organizations. Special training is needed to develop the skills of local law enforcement agencies in the area of investigation and prosecution.

Source, transit, and destination countries should provide support mechanisms for trafficking victims involved in judicial activities. These would include extended witness protection services and opportunities to institute criminal and civil proceedings against traffickers. Destination countries should have a system of social support for victims and consider residency permission on humanitarian grounds for trafficking victims who cannot return home and/or cooperate with prosecutors.

It is also important that the police, prosecutors, and courts ensure that their efforts to punish traffickers are implemented within a system that is quick and respects and safeguards the rights of the victims to privacy, dignity, and safety.

We are made to understand that in Asia, there exists a Memorandum of Understanding between Thailand and Cambodia and one between Nepal and India to combat trafficking. Perhaps with the experience of those countries and our resource persons, we could embark on the formulation of a regional legislative model for the States in the ASEAN region or in the Asia Pacific Region to address more effectively the criminalization of trafficking and the protection of trafficked persons. A Memorandum of Understanding such as this would allow for the exchange of information and monitoring the traffickers' action. In addition, we believe continued attention must be paid to the root cause of trafficking. Poverty is one of the most significant factors contributing to a woman's risk of being exploited by commercial traffickers.

We meet today, ladies and gentlemen, with the aim of developing and implementing comprehensive strategies to combat this growing social problem. We are honored to have with us experts in this field who have initiated much work in combating trafficking of women and children in the ASEAN region. I am positive this meeting on trafficking with a cross-border and regional perspective will be of immense benefit to everyone and will pave the way for future action and collaboration in restoring the rights and dignity of these innocent children and women, and prevent the escalation of such heinous inhumane crimes.

Let us not wait until the worst has happened, or is already happening. Let us be serious about abolishing the trafficking of women and children, and urge the authorities to take effective action against traffickers, their agents and those involved in the operation of entertainment establishments which provide sex services. Only so can we save those who might be victims tomorrow.

So let us act now "An ounce of prevention is worth a pound of cure".

#### Various Ministries and their activities concerning child and women trafficking.

##### **Ministry of Foreign Affairs Social and Cultural Affairs Section**

The Assistant Secretary of Social and Cultural Affairs Section is the designated point of contact for trafficking issues at the Ministry of Foreign Affairs.

##### **Ministry of Home Affairs Anti-Vice Task Force**

The Ministry of Home Affairs has created a special Anti-Vice Task Force aimed to target trafficking and prostitution networks and to identify and deport foreign women who entered the country legally or illegally, and subsequently engaged in the sex trade in Malaysia.

##### **Ministry of Home Affairs Royal Malaysian Police**

The Royal Malaysian police regularly conduct raids on brothels. Many of the brothels include women who are illegal immigrants who are kept against their will. Women who are clearly victims of trafficking are usually handed over to nongovernmental organizations. These NGOs work with the Malaysian government to look into prosecution of the traffickers, and have the victims repatriated without further victimization (for example, being placed in jail because they overstayed their visa or do not have identification documents).

The Criminal Investigation Department has also been involved in cracking down on vice.

##### **Ministry of National Unity and Social Development Department of Social Welfare**

The Department of Social Welfare maintains statistics on the number of women who were sent to rehabilitation centers after being detained in suspected places of prostitution.

## IN MALAYSIA - JUNE -JULY - AUGUST 2005

### 'Chewing Gum Kids'

**A brief report on how organized syndicate exploits young children for their own benefits and ultimately leading the children into a bleak and uncertain future.**

In Malaysia, there were reports in the daily press dated July 2005 which exposed the activities of the street kids called 'chewing gum' kids. These little foreign children were used by syndicate to sell chewing gums to tourists at nightspots. Currently there is an estimated 50,000 refugees in Malaysia mainly from strife-torn Aceh (about 20,000) and Myanmar (11,000).

These Chewing Gum Kids are believed to have been brought into the country from Thailand, Vietnam and Myanmar. These children aged between seven and 16 have been walking the streets with begging bowls, probably for months, without once drawing the attention of the cops or the welfare authorities. These people (syndicate members) are using children to raise funds when they should be with their families at night. Thus, stern measures should be taken to break the syndicate's activities.

Under the Child Act 2001 children must be protected from being exploited to raise funds. All children have the right to a safe environment. Home and family environment is important in a child's education achievement

Lax enforcement was one of the contributing factors to the problem of child beggars.

Rohingya (Muslims from Myanmar) parents will start thinking about their children's future especially after the government is thinking of allowing Rohingyas to work here.

The first major breakthrough since the daily press exposed the chewing Gum Kids activities on June 27<sup>th</sup> by concerned public tip off. Authorities believe the catch will help them bust the chewing gum's syndicate. The department will continue its operations until the area is clear of chewing gum kids.

Women, Family and Community Development Minister wants the police to arrest those behind the foreign child beggar syndicate.

Non-governmental organization, however feel that the Welfare Department should not wait but rescue the children from the clutches of their exploiters.

It has been reported that those found guilty using children to solicit funds or beg can be fined RM 5,000 and jailed two years under the Child Act 2001.

### What is being done by the Malaysian government?

- Police to act against a syndicate which deployed foreign children solicit funds from the public at night.
- A task force set up to round up children selling chewing gum at night spots in the city. The task force comprises City Hall, Welfare and Immigration department personnel. The task force will also 'patrol' the major areas.
- The Federal Territory Welfare Department has urged the public to inform it of any instance where a child is being used to beg or solicit funds.

### Actions thus far:

The task force had rescued a seven year old girl and arrested her mother from Myanmar during the operation to round up chewing gum kids. A Vietnamese woman was also detained. All three are at the detention camp awaiting deportation.

City Hall enforcement officers and Welfare Department officers nabbed a Thai women and her seven year old daughter. They also picked up a 48 year old Vietnamese woman during the operation. They were handed over to the Immigration Department and both the women and the girl have been detained at the department's temporary lock-up.

The authorities have arrested a local middle aged woman, a Rohingya (Muslim from Myanmar) woman with her son and a local college student.

Also nabbed were 13 women and 15 men some of whom are believed to be parents of the children. Investigations revealed the children were forced by their parents to beg.

Five hour Operations mounted by the police rescued 26 child beggars, believed to be Rohingyas (Muslims from Myanmar), Thais and Vietnamese.

Press clippings on the 'chewing gum kids' and action by the Malaysian authorities.