

Ms. Sigma Huda
Special Reporter on Trafficking in Persons statement at the CSW- Beijing +
10 Review
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Ladies and gentlemen,

The Beijing Declaration and Platform for Action recognizes trafficking of women and girls as one of the major challenges to the protection of women's rights. Trafficking represents the denial of the right to liberty and security of the person, the right to freedom from torture, violence, cruelty or degrading treatment, the right to freedom of movement, the right to home and family, the rights to health and education – everything that makes for a life with dignity. By its very definition, trafficking in human beings constitutes gross human rights violations.

The Platform of action encouraged Governments of countries of origin, transit and destination, regional and international organizations, as appropriate to consider the ratification and enforcement of international conventions on trafficking in persons and on slavery.

Recently crucial standards have been set. The UN Convention Against Transnational Organized Crime came into force in September 2003, and the two Palermo Protocols, one on trafficking and the other on migrant smuggling entered into force soon after. These are vital instruments to address the issue of human trafficking and related matters and they reinforce the earlier 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Convention on the Elimination of All Forms of Discrimination Against Women. In addition, the International Convention on the Protection of the Rights of All Migrant Workers and their Families entered into force in July 2003. Members of the 60th session of the Commission on Human Rights in March-April 2004 have established the mandate which was entrusted to me – the Special Reporter on Trafficking in Human Beings, Especially Women and Children. The member states of the European Union adopted a directive on the granting of short-term residence permits to victims of trafficking under certain conditions and the Council of Europe is in the process of drafting a new convention against trafficking. In developing detailed human rights based responses to each stage of the trafficking cycle, the High Commissioner for Human Rights issued the Recommended Principles and Guidelines on Human Rights and Human Trafficking in July of 2002. The recommendation of the UN Working Group on Contemporary Forms of Slavery have been key to anti-trafficking policy and programs.

The Platform for action further recommended to take appropriate measures to address the root factors, including external factors, that encourage trafficking in women and

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol Against Smuggling of Migrants.

² Legislative Resolution on the Proposal for a Council Directive on Short-Term Residence Permit Issued to Third-Country Victims of Trafficking in Human Beings or to Third-Country Nationals who have been Subjects of an Action to Facilitate Illegal Immigration who Cooperate with the Authorities (I4432/2003-05-0557/2003 — 2002/0043 (CNS), 9 March 2004.

girls for prostitution and other forms of commercialized sex, forced marriages and forced labour in order to eliminate trafficking in women, including by strengthening existing legislation with a view to providing better protection of the rights of women and girls and to punishing the perpetrators, through both criminal and civil measures; Step up cooperation and concerted action by all relevant law enforcement authorities and institutions with a view to dismantling national, regional and international networks in trafficking. Governments and NGOs must also address and not ignore the buyers of sexual services, since it is the demand for sexual exploitation that promotes trafficking, as recognized in Article 9.5 of the UN Protocol on Trafficking. All key actors involved in the process of trafficking for the purposes of sexual exploitation and prostitution should be made visible and accountable. Moreover, governments must allocate resources to provide comprehensive programmes designed to heal and reintegrate into society victims of trafficking, including through job training, legal assistance and confidential health care, and take measures to cooperate with non-governmental organizations to provide for the social, medical and psychological care of the victims of trafficking; Develop educational and training programmes and policies and enact legislation aimed at preventing sex tourism and internet trafficking, giving special emphasis to the protection of young women and children.

Unfortunately, some countries still continue to treat victims of trafficking as criminals rather than as victims. For example, Victims of cross-border trafficking are criminalized and prosecuted as illegal aliens, undocumented workers or irregular migrants, rather than treated as victims of a crime. Women and young girls who are trafficked into the sex industry are penalized as a result of their illegal entry or stay, instead of receiving assistance as victims. Trafficking as a crime needs to be prevented, the perpetrators prosecuted and the rule of law strengthened. However, it is crucial that in all anti-trafficking interventions the human rights of the victim remain paramount and at the centre of the interventions.

It is also imperative that at this stage we should consider the link between trafficking and prostitution and recognize that prostitution is in itself a form of trafficking as defined in the Palermo Protocol since it is a form of sexual exploitation. Even if no visible external force is used, the consent of the victim as stated in Article 3 b of the Protocol is irrelevant. It cannot be said that prostitution is a voluntary process with no compelling or propelling factors such as the question of survival or of no other options being available to women that recruiters, traffickers and pimps take advantage of.

From reports coming it appears that in fact more people are being trafficked than ever before. The pool of potential victims in most parts of the world is growing on account of widespread inequalities, insecurity of food and livelihood, violence, conflict, discrimination, and a general uprooting of populations leading to migration. The report presented by the Special Reporter on the human rights of migrants of the Commission on Human Rights to the General Assembly in 2004 highlighted the three most important challenges of international migration: first, the extent and the high proportion of women's migration and the increase in the number of countries of origin, second, the difficulty of obtaining recognition of the human rights of migrants, and

³ See, for example, Special Reporter on Violence Against Women, Its Causes and Consequences to the Commission on Human Rights, E/CN.4/2003/75/Add.1, 27 February 2003.

lastly, the need for rights-based migration management. Increasingly restrictive immigration policies and impermeable borders of many wealthy states lead those desperate for work to turn to unscrupulous traders in human beings. In her report, the Special Reporter^a notes that women are lured by recruitment agencies and many end up as victims of trafficking. Traffickers are able to operate with impunity because of inadequate law enforcement and protective measures for migrants, and in some instances, due to corruption amongst relevant officials.

The human rights dimensions of trafficking are evident. Trafficking debt bondage, prostitution, mail order brides marketing syndicates, sex tourism, forced labour and slavery-like practices are violations of the most basic rights. Trafficking is inherently discriminatory and provides an illustration of the way in which multiple types of discrimination operates. Ethnic, gender and class discrimination deny basic life opportunities and choices to a vast number of the world's women and girls, whose precarious social, economic and legal situation, renders them particularly vulnerable to trafficking and related exploitation.

A human rights approach to trafficking in persons is based on two fundamental principles:

- Human rights must be at the core of any credible anti-trafficking strategy; and
- Anti-trafficking interventions must be developed from the perspective of the trafficked person as well those who are particularly vulnerable.

These two principles are interrelated. Placing human rights at the centre of anti-trafficking analysis and interventions ensures that the factors which create the vulnerability to trafficking are addressed. This means that poverty, inequality and discrimination which are the root causes of the phenomenon, are confronted. Such an understanding allows for addressing prevention issues at the same time as providing assistance to the victims of trafficking and setting up protective measures so that their human rights are not violated further.

A human rights approach also demands an acknowledgement of the responsibility of governments to protect and promote the rights of all persons within their jurisdiction. This responsibility translates into legal obligations on governments towards eliminating trafficking and related exploitation.

The trafficked person realizes that she or he is a victim of trafficking when she or he is placed in situations of forced labour or sexual exploitation in the countries of destination. A human rights approach therefore places added responsibility on governments of destination countries, especially to address and penalize demand. This translates into addressing the demand for sexually exploited women and children. It also requires that governments establish enforceable labour standards, creating mechanisms for proper victim identification of those trafficked for forced labor, efficient prosecution of traffickers and above all, extending unconditional support and assistance to trafficked persons. The human rights obligations of countries of destination are therefore crucial for these entail dealing with the entire gamut of anti-trafficking interventions, from prevention to prosecution and protection.

^a UNDOC A/59/377.

A human rights approach to trafficking also requires enhanced bilateral and multilateral cooperation between countries of origin and destination in order to address the root causes of trafficking from the standpoint of prevention and to achieve sustainable reintegration of the trafficked person into society, be it in the country of origin or destination, from the perspective of assistance and protection.

In performing my functions as Special Reporter I hope to be able to put greater focus on the human rights dimension of trafficking and to encourage a human rights approach to this phenomenon.

The issue of trafficking has been in the forefront for at least the past decade in most regions and for longer in others. Considerable research, analyses, legal and policy initiatives, practical interventions and expertise have been generated on the issue. This vast body of knowledge and experience is extremely useful to me and I intend not only to tap into it, but to build upon it. In deciding on my programme of visits and on the themes to be treated in annual reports, I will give the utmost importance to considerations such as the need to avoid duplications and identify the mandate's added value. In particular, given the broadness of the mandate, I will seek to focus attention on specific themes. I just came back from a mission to Bosnia and Herzegovina where I could analyze the situation of trafficking for sexual purposes in a post-conflict society. I shall seek to devote each mission to a specific topic and, in particular, to different sites of trafficking. I hope that I will be able to count on your support, advice and suggestions in this regard. I also look forward to the outcomes of this meeting and to being involved in discussions on how to renew the commitments taken in Beijing 10 years ago and continue the struggle to protect women and girls from terrible abuses and human rights violations.

Thank you.