

**BALI PROCESS ON PEOPLE SMUGGLING, TRAFFICKING IN PERSONS AND
RELATED TRANSNATIONAL CRIME**

**REGIONAL SYMPOSIUM ON TRAFFICKING FOR THE PURPOSES OF LABOUR
EXPLOITATION: TRENDS KEY ISSUES AND REGIONAL COOPERATION
BANGKOK, THAILAND
25-26 MARCH 2015**

Co-Chairs' Summary

1. The Governments of Thailand and Australia co-hosted the Bali Process Regional Symposium on Trafficking for the Purposes of Labour Exploitation in Bangkok, Thailand from 25 to 26 March 2015. The symposium was co-hosted by the Thai Ministry of Foreign Affairs and the Australian Government Attorney-General's Department.

2. Ms. Pornprapai Ganjanarintr, Director General of the Department of International Organisations, Ministry of Foreign Affairs of Thailand and Ms. Catherine Smith, Assistant Secretary, Crime Prevention and Federal Offenders Branch, Australian Attorney-General's Department, made welcoming remarks. The workshop was opened by H.E. Mr. Don Pramudwinai, Deputy Minister for Foreign Affairs of Thailand, and H.E. Mr. Paul Robilliard, Australian Ambassador to Thailand. They emphasised that trafficking for the purposes of labour exploitation is an increasing problem in the region, in the context of an increasing number of nationals who seek foreign employment. They highlighted the commitment of Bali Process members to combatting this form of trafficking in persons, and the importance of regional cooperation in addressing the issue. They noted the value of the Bali Process as a mechanism for member countries to come together to share experiences, to learn from each other's examples and identify opportunities for common approaches to shared challenges.

3. The symposium was co-chaired by Mrs. Kanchana Patarachoke, Deputy Director General, Department of International Organisations, and Ms. Catherine Smith, Assistant Secretary, Crime Prevention and Federal Offenders Branch. The co-chairs highlighted that the symposium objectives were to: examine key concepts and emerging regional trends in trafficking for the purposes of labour exploitation; to share experiences and best practices responses, focusing on recruitment and the role of stakeholders; to discuss the protection of workers, particularly victim identification and assistance; and to consider opportunities to enhance regional cooperation to address the issue of labour trafficking.

4. The Co-Chairs noted that the symposium delivered on a commitment made at the 5th Bali Process Regional Ministerial Conference held on 2 April 2013, where Ministers directed the Bali Process Ad Hoc Group to establish a Working Group to specifically focus on addressing issues related to trafficking in persons. Ministers noted that concerns had been raised in recent Bali Process meetings which had identified labour trafficking as an increasing problem for the region. Ministers directed that the new working group explore the extent to which the issue affected Bali Process members, and identify opportunities for regional cooperation to address the issue.

5. 117 officials and experts from academia, international organisations, industry and NGOs attended the symposium. This included representatives from the governments of Australia, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, Fiji, Hong Kong SAR, India, Indonesia, Iraq, Japan, Jordan, Kiribati, Macau, Malaysia, Maldives, Mongolia, Myanmar, New Zealand, Papua New Guinea, the Philippines, Republic of Korea, Samoa, Solomon Islands, Sri Lanka, Thailand, Timor-Leste, Tonga, Turkey, United Arab Emirates, United States of America,

Vietnam, the International Organization for Migration (IOM), the United Nations Office on Drugs and Crime (UNODC) and the United Nations High Commissioner for Refugees (UNHCR). Canada, the United Kingdom and International Labour Organization (ILO) also participated as observers. The list of participants is attached hereto as Annex I.

6. The 1st expert panel discussion of the symposium focused on concepts and emerging regional trends in trafficking for the purposes of labour exploitation. Expert panelists included: Roger Plant, an independent writer, trainer and consultant, and former Head of the ILO Special Action Programme to Combat Forced Labour; Alain Pelcé, Senior Labour Standard and Labour Law Specialist, ILO; Rebecca Surtees, an anthropologist and senior researcher at NEXUS Institute; and Ainsley Stinson, Regional Programme Consultant, Human Trafficking and Migrant Smuggling, UNODC.

7. Expert panelists provided an analysis of the issues in defining exploitation, and a historical overview of the development of legal concepts and instruments to respond to forced labour and trafficking for the purposes of labour exploitation, including the relevant ILO conventions, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Emerging themes in the regional experience of labour trafficking were also discussed. Key themes that were identified included that there are many different forms of labour trafficking in the region, in many different industries, and that a one-size-fits-all approach to the issue is not feasible. Labour trafficking is also often viewed as being less serious than trafficking for the purposes of sexual exploitation, and may be seen as more of a labour issue than a trafficking issue and a violation of victims' human rights. Another trend identified was that victims are going un-identified, for a range of reasons, including that many are unaware that they are in a trafficking situation or not willing to identify themselves as victims, or may be deterred because of the shame or stigma associated with identification or because identification may be linked to compulsory assistance. The particular vulnerability of smuggled migrant workers to being trafficked was highlighted, as their irregular status means that they are often not protected under domestic labour standards. The changing profile of victims of trafficking was also noted, with a significant increase in the proportion of male victims being identified in recent years.

8. The 2nd expert panel discussion saw an active and fruitful discussion on experiences and good practices in the prevention of human trafficking for the purposes of labour exploitation with a focus on recruitment and roles of stakeholders. Expert panelists included Amber Hawkes from International Justice Mission Australia, Paul Buckley from UN-ACT, John Whan Yoon from World Vision's End Trafficking in Persons Program, Christina Sevilla from the Philippines' End Child Prostitution, Child Pornography & Trafficking of Children for Sexual Purposes, Mauro Beck from Krusell (Thailand), and Marja Paavilainen from ILO's Enhanced Action against Forced Labour in Asia and the Pacific.

9. The discussion highlighted the importance of prevention and multi-stakeholder partnerships that include the private sector in combatting labour trafficking, while also touching on a number of other key concepts. It illustrated that a key challenge in combatting trafficking in persons lies not in the lack of appropriate legal frameworks but in the meaningful implementation of law enforcement. There is a need to understand the risks in order to develop appropriate risk reduction strategies – there is no one size fits all solution. One needs to go beyond the assumption and intervene much earlier to engage those at risk. It is also important to address the root causes and go beyond awareness raising in order to achieve a sustainable change of behavior. The panelists and participants also shared a number of examples and good practices from around the region that ranged from child protection through risk reduction, to the use of a Code of Conduct for recruitment agencies to self-regulate, to the implementation of a Good Labour Practices program in a targeted industry.

10. Participants also exchanged views and experiences in small group discussions that included such topics as: exploitation in supply chains; strategies to encourage stakeholder cooperation in prevention; and strategies to enhance coordination between labour inspectors, judges, prosecutors, and police.

11. Recommendations from expert panelists and participants centered on a number of practical actions that included the need for integrated and comprehensive measures that address the root cause in targeted populations or sectors; the need to develop a multi-stakeholders partnership and collaborative network across sectors and geographical areas; the need to promote understanding of existing legal frameworks by law enforcement agencies as well as the civil society who often acts as the first responder; the need to enhance capacity building from the ground up; the need to strengthen and regulate recruitment processes to reduce risk factors; and the need to create a community advocacy group or a community prevention group to provide a social safety net for the vulnerable few, build life skills and promote resilience among youths, and respond to exploitative situations.

12. The 3rd Expert Panel Discussion of the Symposium moved the discussion to consideration of the protection aspect of labour trafficking, covering a wide range of issues from protection of rights as a means to prevent exploitation, to challenges of victim protection, to compensation, to aftercare and recovery services. Expert panelists included Vitit Muntarbhorn, Professor of Law and former UN Special Rapporteur; Reiko Harima from Mekong Migration Network, Douglas MacLean from Justice Without Borders, and Kate Kennedy from Hagar Australia.

13. The panelists highlighted a number of key issues on protection with trends and case studies from around the region. Emphasis was placed on practical and sustainable implementation of policies and measures which include promoting safe and legal recruitment channels and effective enforcement of laws and regulations, the role of the community, the importance of victim identification as a means for victims to access protection services, the need for a victim-oriented approach and victim-sensitive procedures, the growing challenge of social exclusion of victims, and the need for multi-stakeholder cooperation both within domestic and international contexts.

14. The discussion also touched on the use of civil remedies to complement criminal justice and administrative measures, as well as the positive impact of aftercare and recovery services that go beyond victim protection to transition, sustainable re-integration, and eventual independence without the risk of re-victimization and re-trafficking. The role of social enterprises as a provider of aftercare and an agent for sustainable reintegration was also mentioned.

15. The session also benefited from experiences and good practices shared by some delegates. The rich discussion offered a number of key recommendations to overcome the challenges of protection. There is a real need for capacity development for all stakeholders that goes well beyond ad hoc training. Cohesion and better coordination between agencies as well as an expedited justice system, sufficient support services, and the existence of a cross referral mechanism and a common fund for assistance that includes new priorities such as recovery services are also valuable for an effective protection system.

16. Participants also discussed the issue of progress evaluation and the dilemma between process assessment and impact assessment to measure success. Participants recognized the need to always strive for improvement, stressing the importance of lessons learned and the way forward.

17. The final panel session of the symposium focused on regional initiatives on labour trafficking, and the value of regional cooperation. Expert panelists included: Mark Taylor, Team Leader of the Australia-Asia Program to Combat Trafficking in Persons; Fergus Hanson, Executive

Vice President, Global Fund to End Slavery; Tara Dermot Head, of IOM X; and Dr Chatchom Akapin, Senior Expert State Attorney, International Affairs Department, Office of the Attorney-General, Thailand.

18. The panelists provided an overview of some initiatives in the area of regional and global cooperation aimed at combatting trafficking in persons. This included AAPTIP's work focused on enhancing the criminal justice response to trafficking in persons in ASEAN member countries, the experience of IOM X in promoting awareness raising about trafficking in persons issues using a participatory approach that leverages technology to share information, and encourage people to act in a way that helps to prevent trafficking in persons; and the work of the Global Fund to End Slavery, in promoting a global strategy to combat trafficking in persons that is country driven, including through encouraging collaboration between governments, business, NGOs and civil society, and the development of robust evaluation methodologies. The development of two sets of Bali Process Policy Guides, on Criminalising Trafficking in Persons and Smuggling of Migrants, and Identifying and Protecting Victims of Trafficking, was also highlighted as a positive example of regional cooperation through the Bali Process. The guides are short and practically focused aids to support practitioners and policy makers in member countries in complying with international standards and best practice in their response to trafficking in persons.

19. Participants agreed that trafficking in persons for the purposes of labour exploitation is an abhorrent violation of human rights, and that countries must ensure a comprehensive, coordinated approach to combating this crime. Members spoke about their national experiences in developing laws to effectively implement international obligations into domestic law. Many countries have put in place trafficking offences in domestic law and developed national anti-trafficking action plans, encompassing the elements of prevention, prosecution and protection. A number of countries have also established dedicated specialist anti-trafficking investigative units at the local and national levels, though capacity building of law enforcement officials remains a priority. Countries shared information about their programs to support victims through provision of health, accommodation and welfare services, and visas tailored for trafficking victims. Countries have also applied awareness-raising initiatives as a preventative measure to target persons vulnerable to trafficking, often in collaboration with civil society organisations. Suggestion was made to frequently exchange and make use of good role models and lessons learnt on this issue. Complex challenges remain in implementing legal and policy frameworks, particularly in identifying victims, investigating trafficking cases and securing convictions. Ensuring a victim-centered approach during investigations and prosecutions, and ensuring that victims have sufficient support, remains an ongoing priority for members.

20. Participants considered concepts and regional trends in relation to labour trafficking, shared experiences and best practices in prevention of labour trafficking (particularly through recruitment standards and stakeholder cooperation), and mechanisms to protect victims. Member countries explored ways to strengthen a coordinated approach to prevent and address labour trafficking, and considered how the Bali Process could assist them to address challenges in efforts to combat this crime.

21. Looking ahead, participants acknowledged the need to elevate recognition of the impact of trafficking for the purposes of labour exploitation on victims as being equal to other forms of trafficking. Participants considered that it would be useful for the Bali Process to further explore avenues to prevent fraudulent recruitment practices that lead to labour trafficking, and to develop training for officials on identifying victims of labour trafficking. Participants also considered that there would be value in looking at how countries can strengthen collaboration between the agencies in their domestic settings responsible for labour rights, and those involved in the criminal justice response to trafficking in persons. Communication and awareness raising opportunities

were also highlighted, including the need to raise awareness of safe migratory pathways, the rights and obligations of migrant workers, and access to complaint mechanisms and referral pathways for them to access support services. The need for robust mechanisms for international crime cooperation, including mutual legal assistance systems, was also acknowledged, to underpin an effective criminal justice response to labour trafficking, as it is often transnational in nature. The value of sharing of member countries' experiences in responding to labour trafficking was also emphasized, and that there would be value in establishing an ongoing mechanism for Bali Process members to share and 'troubleshoot' particular challenges with which they are grappling with other members, to benefit from each other's experiences. The potential to learn from the experiences of other regional forums focused on combatting trafficking in persons was also highlighted.

22. Given the transnational nature of trafficking in persons ventures, participants recognised the importance of informal and formal cooperation, and that the Bali Process is a useful platform to strengthen that cooperation, to improve victim identification processes and criminal justice responses.

23. Participants acknowledged the important role of the Bali Process in enhancing relations amongst officials, and agreed that the new Working Group on Trafficking in Persons would be an important mechanism to establish a channel for regular information sharing and dialogue on trafficking in persons issues, including experiences related to labour trafficking.

24. The co-chairs thanked participants for their open and constructive engagement in the symposium discussions, which were held in an atmosphere of cooperation and collaboration. The participants expressed appreciation to the Governments of Thailand and Australia for co-hosting the workshop and the warm hospitality accorded to all, as well as to the IOM for providing logistical and administrative arrangements to facilitate participants' attendance.

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