

**NATIONS UNIES
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**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on contemporary forms of slavery; and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: AL/Trafficking (2004-5) G/SO 214 (89-15) Slavery (2007-2)
THA 8/2013

2 January 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on contemporary forms of slavery; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 17/1, 24/3, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning two Thai nationals, Ms. [REDACTED] and Ms. [REDACTED] who were trafficked from Thailand to Italy.

According to the information received:

In 2006 Ms. [REDACTED] was promised a well-paid job in Italy to wash dishes and pick papayas by one of her neighbors, Ms. [REDACTED]. Ms. [REDACTED], a mother of four, had recently become a widow and was seriously indebted. As a result, she decided to take the job offer, which would allegedly earn her a hundred thousand bath within a few months. It is reported that her neighbor was a rich and well-respected figure in the community, as she was the former chairperson of the Sub-district Administrative Organization. Ms. [REDACTED] trusted her neighbor and never suspected that she would deceive her.

One of Ms. [REDACTED] relative, Ms. [REDACTED], was also recruited. Ms. [REDACTED] husband used to always see Ms. [REDACTED] return from Italy with big sums of money, so he entrusted his wife into her care, without knowing that she and her husband were traffickers.

Ms. [REDACTED] and Ms. [REDACTED] arrived in Italy in February 2006, where they were allegedly forced to provide sexual services to clients, were never given a day off and had to work at all-time including during their menstruation. They allegedly received threats that should they become pregnant, they would be taken to an abortion clinic and made to work again two days later. The wage to make up for the two days would also be deducted from their salaries. Furthermore, Ms. [REDACTED] was informed that she owed the brothel owner 500,000 bath, without knowing the reason for this debt.

Less than four months following their arrival, reports indicate that the police raided the brothel. The two victims were arrested for illegally residing in the country as their visas had expired. Following screening interviews by the police, the victims were granted a reflection period, during which they were hosted in a shelter located in Rome and run by an intergovernmental organization. The two women stayed in this shelter for three months until being repatriated in August 2006. The victims received financial and legal assistance from this organization. They returned to Thailand with the help of this organization and a faith based NGO. The charges for irregular entry were withdrawn.

According to reports, the police also arrested two persons connected with the management of the brothel, but they were later released without charges.

On the day of their repatriation to Thailand from Italy, the trafficker sent a car to the shelter in an attempt to take Ms. [REDACTED] and return her to sex work and threatened her against returning to Thailand. Ms. [REDACTED] felt threatened and was afraid that she would be killed. Even after returning to Thailand, Ms. [REDACTED] was accused by her trafficker for framing her for an arrest. It is reported that people in the community turned against Ms. [REDACTED] for this reason.

It is also reported that Ms. [REDACTED] tried to raise her concerns to the Thai Embassy in Italy. However she was allegedly insulted and mistreated by a Thai interpreter employed at the embassy. Despite her hope to find comfort and support from her Embassy and share her experience with someone who speaks her language, the prejudice she suffered only added to her trauma.

Ms. [REDACTED] and Ms. [REDACTED] decided to press charges in Thailand. On 12 October 2007, the Court of First Instance found the perpetrator guilty under the Act to Prevent and Suppress Prostitution and handed her an 18-years imprisonment sentence as well as an order of compensation to the aggrieved for the amounts of 631,740 and 431,675 bath respectively.

During the first trial proceedings, Ms. [REDACTED] petitioned the judge to oppose the perpetrator's bail request. However, her petition was unsuccessful as the judge considered the accused to be innocent until proven otherwise and because she had

never missed a court appointment. It is alleged that the accused escaped from Thailand before the verdict was delivered and has not been apprehended since. In addition, her assets could not reportedly be seized as these had long been transferred to her relatives, which included land and rubber plantations.

It is believed that the perpetrator, Ms. [REDACTED], still resides in Italy and continues to traffic Thai women into prostitution in Italy. Allegedly, she also continues to travel to the sub-region to meet family members

While we do not wish to prejudge the accuracy of these allegations, concern is expressed at the failure to ensure the apprehension of the perpetrator and consequently halt her trafficking activities and enforce the payment of the compensation award to Ms. [REDACTED] and Ms. [REDACTED].

We would like to make reference to the fundamental principles set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (“the Palermo Protocol”) ratified by your Excellency’s Government on 17 October 2013. As a State Party to the Palermo Protocol, your Excellency’s Government is obliged to prevent and combat trafficking in persons, and to protect and assist the victims of such trafficking, with full respect for their human rights.

Article 6(2) of the Palermo Protocol stipulates that “each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases: (a) Information on relevant court and administrative proceedings; (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence”. Moreover, Article 6(3) provides that “each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society (...)”. Article 6(6) further stipulates that each “State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered”. Further, under article 11, “State parties undertake without prejudice to international commitments in relation to the free movement of people, to strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons”.

We would also like to refer to the Recommended Principles and Guidelines on Human Rights and Trafficking, (Recommended Principles and Guidelines) issued by the Office of the United Nations High Commissioner for Human Rights in July 2002. Principle 2 of the Recommended Principles and Guidelines provides that “States have a responsibility under international law to act with due diligence to prevent trafficking, to

investigate and prosecute traffickers, and to assist and protect trafficked persons”. Principle 13 similarly indicates that States “shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or by non-State actors”.

As conditions in which trafficked persons often amount to slavery, we would also like to bring to your Excellency’s attention article 8 of the International Covenant on Civil and Political Rights, ratified by Italy on 15 September 1978, prohibiting slavery, and article 2 of the 1930 International Labour Organization Forced or Compulsory Labour Convention (ILO No. 29) ratified on 18 June 1934 prohibiting forced or compulsory labour.

As in this case trafficking is also a manifestation of trafficking against women taking place in the transnational arena, we deem it pertinent to recall the international human rights norms and standards related to violence against women. These include Article 6 of the International Convention on the Elimination of all forms of Discrimination against Women and general recommendation No. 19 (1992) of the Committee on the Elimination of Discrimination against Women (CEDAW) which defines gender-based violence against women as well as the United Nations Declaration on the Elimination of Violence against Women clarifying that violence against women shall be understood to encompass trafficking and forced prostitution and explaining the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.

As it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide information on any measures taken to ensure protection of Ms. [REDACTED] and Ms. [REDACTED] against any act of reprisal for their efforts to bring the perpetrator to account.
3. Please clarify what measures have been taken to enforce the compensation order in favour of Ms. [REDACTED] and Ms. [REDACTED].
4. Please indicate what measures of cooperation with the Government of Italy have been taken to facilitate the arrest of the perpetrator and the execution of the sentence against the perpetrator. Please also explain what mechanisms are in place to facilitate the exchange of information concerning traffickers and their methods of operation.

We would also like to inform you that we intend to write to the Government of Italy concerning this case.

We would appreciate a response within sixty days. We undertake to ensure that your Government's response is reflected in the report to be submitted to the Human Rights Council for its consideration. While waiting for your response, we urge your Excellency's Government to take all necessary measures to ensure due diligence to effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct; and to obtain compensation for damage suffered.

Please accept, Excellency, the assurances of our highest consideration.

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