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**Sigma Huda**

**Special Rapporteur on trafficking in  
persons, especially women and children**

**New York, 18 May 2007**

Ms. Chairperson, distinguished members of the United Nations Permanent Forum on Indigenous Issues, ladies and gentlemen,

It is an honour and a pleasure for me to address the Forum today in my capacity as Special Rapporteur on trafficking in persons, especially women and children.

Ms. Chairperson,

I would like to use this first opportunity at the Forum to present my mandate and clarify its particular relevance to the human rights situation of indigenous peoples generally and that of indigenous women specifically. This, I hope, will encourage indigenous peoples, particularly indigenous women's groups, to send the mandate more information about their situation. It is in this way that I will be in a position to examine, report and advise on the situation of indigenous women and ensure that their voice is heard and heard louder where and when necessary.

### **Trafficking mandate**

At its sixtieth session, the Commission on Human Rights adopted decision 2004/110, by which it decided to appoint a Special Rapporteur on trafficking in persons, especially women and children, with a focus on the human rights aspects of trafficking in persons.

The universally accepted definition of trafficking in persons is contained in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol) of 2000. This Article defines trafficking as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of a 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 giving or receiving payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Such exploitation shall, at a minimum, include the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. The definition of trafficking also contains the important provision that the consent of a victim of trafficking in persons to the intended exploitation set forth in the first part of the definition "shall be irrelevant" where any of these means have been used.

For instance, the case of an indigenous woman who has been recruited from country A, transported to country B where her passport is confiscated and where she is subjected to violence and threats against her family, and finally induced into prostitution when she had been promised work as a hotel receptionist, is clearly, therefore, a situation of human trafficking.

### Human rights focus of the trafficking mandate

Ms. Chairperson, human rights violations are not only a **consequence of human trafficking**; they are also its **cause**. A system which provides for the strong promotion and protection of all human rights and freedoms is a system which will indisputably be stronger in preventing trafficking and decreasing the vulnerability of persons to being trafficked. The enjoyment of human rights is equated with a life of opportunity and dignity, a life devoid of inequality, devoid of economic, cultural, linguistic and gender discrimination, a life devoid of marginalisation. A person whose rights and freedoms are so respected and protected is an empowered person, a person who will be less vulnerable to abuse and exploitation; and if any such abuse and exploitation does nevertheless take place, then the victim may, at a minimum, rely on the existing human rights and judicial infrastructures to redress the damage suffered as far as possible. This is in line with States' duty to exercise due diligence in preventing trafficking, and prosecuting and punishing the perpetrators.

In light of this, the mandate of trafficking in persons was created with the objective of addressing the human rights aspects of trafficking in persons, with particular attention to the situation of women and children. The human rights of trafficked persons are, in this context, at the centre of its focus.

In examining the *prevention* aspect of human trafficking, the mandate addresses those factors that may increase the vulnerability to trafficking, including, for example, poverty, inequality, discrimination, poor labour laws, corrupt law enforcement and, of course, the demand for all forms of exploitation that promotes trafficking. These are examples of human rights contexts which may be considered as the root causes of trafficking, in that they may push or pull persons into the trafficking net as a result of the vulnerability they generate.

Furthermore, in assessing the *protection* aspect of trafficking in persons, the mandate considers whether States provide individuals who have been trafficked with the support and protection as required in accordance with international norms and standards. Such support and protection may include, for example, physical protection, legal, medical and psychological support, access to justice and the right to a fair trial and compensation. This support is to be administered with particular attention to the needs of women and children and may in no instances be applied discriminately or arbitrarily.

Ms. Chairperson, the mandate finally assesses whether States have, inter alia, adopted laws to criminalise trafficking and all its component acts as well as enacted laws providing for minimum and enforceable labour standards.

I further examine the effectiveness of law enforcement systems in the context of trafficking and the existence of an independent judiciary with the power to ensure that court decisions are enforced. A credible prosecutorial infrastructure is in fact an effective measure of trafficking prevention in that it weakens the demand for trafficking. I further monitor that anti-trafficking measures are not of such a nature as to adversely affect the human rights and dignity of the persons concerned.

Similar to other special procedures mechanisms, I also carry out official country visits. Since my appointment as Special Rapporteur, I have visited Bosnia and Herzegovina, Lebanon, Bahrain, Oman and Qatar.

I have also presented three thematic reports to the then Commission on Human Rights, now Human Rights Council, on the working methods of my mandate, on the demand for commercial sexual exploitation and on forced marriages. In my next thematic report I plan to focus on trafficking for the purposes of forced labour.

Furthermore, I send communications to Governments regarding allegations of specific individual cases or situations of general concern which touch upon the different aspects of my mandate. This is why, in my work as Special Rapporteur, I maintain tight relations with the NGO community worldwide, while also attending numerous civil society initiatives throughout the year.

### **Root causes of trafficking**

Ms. Chairperson,

If we look at the trafficking phenomenon from a human rights perspective, then my presence here today is particularly relevant. In fact, one of the *means* referred to in the trafficking definition of the Palermo Protocol is the 'abuse of power or of a position of vulnerability.' Surely, power and vulnerability in the context of this definition must be understood as including power disparities based on gender, race, ethnicity and poverty.

The marginal, vulnerable position in which indigenous peoples find themselves in; their exclusion from the social, political, and economic processes of their countries; and the systematic violations of their human rights are **root causes** that render indigenous women especially vulnerable to being trafficked.

Ms. Chairperson, as the Permanent Forum, the Working Group on Indigenous Populations, and the Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, have repeatedly pointed out, despite major anti-poverty campaigns, indigenous communities around the world score low in all social

and economic indicators, and their situation is actually dramatically deteriorating as a result of the continuous loss of control over their traditional lands and natural resources. Moreover, as Mr. Stavenhagen has aptly noted, despite certain legal developments in some countries, there is a widening "implementation gap" between norms regarding the rights of indigenous peoples and their actual enjoyment. In still too many countries, indigenous peoples are not recognized as such, and their concerns and challenges do not seem to qualify as human rights and freedoms. Furthermore, indigenous peoples are especially vulnerable to becoming victims of conflict as a disproportionate number of armed conflicts in the world today take place on indigenous lands. Finally, the often reported exclusion from citizenship of a number of indigenous peoples adds to their vulnerability, as does the fact that they are frequently not in possession of identity documents. This is of special significance when they migrate or are forcefully displaced from their traditional lands and territories.

As we know, if these processes affect indigenous people in general, they have a special impact on the rights of indigenous women, who face discrimination at multiple levels. These are the **root causes** that make indigenous women particularly susceptible to being trafficked, and to endure human rights abuses and exploitation in the trafficking process.

### Indigenous women

Ms. Chairperson,

Socially constructed misconceptions about indigenous women from non-indigenous people play a significant role to this end. The Special Rapporteur on the sale of children, child pornography and child prostitution, Mr. Petit, described in 2006, for example, how indigenous girls from the interior jungle region of Peru, are perceived by non-indigenous populations to be more sexualised and to reach sexual maturity at a younger age. They are perceived as being more desirable as sexual partners. He further claimed that sexual exploiters often choose to exploit a child whose racial ethnic or class identity is 'other' than his own. Such misconceptions and prejudices, which are found in many other countries throughout the Americas and in the rest of the world, further increase the demand for indigenous women and girls to being trafficked and to be used in prostitution "to make prostitution more exotic".

The deteriorating human rights situation of indigenous communities further pushes indigenous women to out-migrate, both to urban centres within the same countries or across borders, to find a means of survival for themselves and their families. As pointed out by the Special Rapporteur on Indigenous Peoples in his last annual report, indigenous women are generally more susceptible to abuses when they migrate. They often lack specific linguistic and educational skills required for the new contexts in which they are



in, they are deprived from their communal ties and support structures, and in this context are more likely to be unaware of their rights. In this light, it has been reported that indigenous women are particularly easy prey to being deceived and trafficked in the migration process. This is, for instance, the case for various indigenous women in various Asian countries, like Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines.

The effects of conflict also have their special toll on indigenous women. Indeed, conflicts have been reported to be a major push factor for the trafficking of indigenous peoples generally, but particularly of indigenous women and girls for prostitution, sexual exploitation, forced marriages, forced concubinage, forced labour and even forced military recruitment. The cases of Myanmar, Colombia, and the Democratic Republic of Congo come to mind.

In my work as Special Rapporteur I have witnessed how violence against women is another key factor in pushing women into being trafficked. It is therefore of concern to me that this may be happening within indigenous communities. As pointed out by the Special Rapporteur on violence against women, indigenous women are often victim of human rights violations as a result of harmful cultural practices practiced within their own communities, including female genital mutilation, forced marriages, or discriminatory customary norms, particularly with regards to land and inheritance rights. Such harmful practices may certainly play a role in pushing indigenous women to leave their own communities in circumstances that could end in trafficking.

## Conclusion

Ms. Chairperson,

The different **root causes** I have just described confirm the Forum's concern that the issue of trafficking of indigenous women must be urgently addressed. Indigenous women are being trafficked because of their being women and because of their being indigenous.

However, information on the trafficking of indigenous women is lacking. Since I was appointed Special Rapporteur on trafficking in persons in 2004, I have indeed received very little information about the trafficking of indigenous women. Only recently, a number of reports have started to pay more attention to the trafficking of indigenous peoples, particularly of women for prostitution, sexual exploitation and also for forced labour, but we are still very far from having a full picture of the situation. It needs to be better documented and this is where I hope to be able to assist.

I am a strong believer, Ms. Chairperson, in the success that may be gained from working in collaboration and in coordination with all relevant partners in order to protect the human rights of indigenous women, and

particularly those being trafficked. The mandate of the Special Rapporteur on trafficking in persons has the capacity to address these serious concerns, and I invite you to use the different mechanisms provided by the mandate in this regard. I look forward, therefore to exploring with the Forum, as well as with the many indigenous peoples and organizations represented here today, the different ways of bringing the issue of trafficking of indigenous women more prominently on the international agenda.

Thank you.