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UNITED NATIONS
COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection of Minorities
Working Group on Contemporary Forms
of Slavery
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Agenda item 4

OVERALL EVALUATION OF THE ACTIVITIES OF THE WORKING GROUP

Statement of International Educational Development
a non-governmental organization on the Roster
(Secretary-General's list)

INTRODUCTION

The IED thinks that the fundamental elements of the activities of the Working Group of Contemporary Forms of Slavery can be divided into two: namely, the standards on contemporary forms of slavery and the implementation of the standards.

STANDARDS

As for the standards, we need to discuss about the existing instruments and the standard setting in future.

1) Existing instruments

There are a set of conventions on slavery and slavery-like practices.

The IED welcomes the information which the WG received under item 3 on the three conventions (E/CN.4/Sub.2/AC2/1992/4 and Add.1): (1) The Slavery Convention; (2) The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery; and (3) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

Are they enough for the activities of the WG of Contemporary Forms of Slavery?

The IED raised the issue of the violation of human rights of Korean men and women during World War II by Japan, which I believe the violation of the Forced Labour Convention. The IED believes this convention as well as the Abolition of Forced Labour convention are two other basic international human rights

instruments, which should be included in the instruments which the WG should always cares for.

→ First, forced labour is to be within the ordinary meaning of 'slavery and slave-like practices' or 'contemporary forms of slavery'. Although the term is not explicitly appears in the Universal Declaration of Human Rights, it should be interpreted that 'slave or servitude' of its Article 4 incules forced labour. It is included in the International Covenant on Civil and Political rights (Art. 8-3(a)). Second, the both conventions are listed in the UN Compilation of International Instruments. Third, in the WG's activities, these conventions are referred under the item on 'slavery and slave-like practices' with no argument' (e.g. paras 49-51 in the WG's report, E/CN.4/Sub.2/1990/44). Fourth, the IED raised the issue of forced labour in labour camps in China and this is one of the major issues that the WG should address. This is important, as the number of the victims is enormously big, namely more than 10 million and it is forced labour not by private people but by the state itself. Who cares for the victims other than the international community, when the state is committing violation of human rights? This WG is the best forum for this type of the issue.

The IED, however, could not find the information as regards these extremely important conventions in the documents for the WG. The IED thinks that the WG should pay attention to this black hole of information as regards forced labour. As a result, the IED would like to propose that the relevant information as regards information on the status and the implementation of those two conventions should be always given to the WG either directly by the governments or through the ILO in future.

2) Standard setting

Prof Palley mentioned about the possible application of the ICJ's advisory opinion. It may be a good idea in future, when the WG establishes a firm consensus on the scope of the activities on 'contemporary forms of slavery'.

The IED thinks that, in order to establish the consensus, the WG should define the scope of its activity first. It may include, as Prof Palley suggested debt bondage, civil imprisonment and, as Ms Ksentini proposed, exploitation of labour. The IED believes that forced labour should be included in it.

The WG may draft a set of principles as well as the definition of the scope of the principles. These UN principles, if adopted by the General Assembly will be a very good guide for all of the government's officials as well as the NGOs and the general public in dealing with contemporary forms of slavery.

In drafting the principles, the WG should not confine itself within very narrow are. As it was discussed by the IED in this session, the scope of the WG's activities should include the long-time-ago violation of human rights, which happend during World War II. This can be justified by the precedence of the ECOSOC activities for the victims inflicted by the Nazi regime

and the fact that slavery had been outlawed before the creation of the UN.

The IED agrees, in general, with the proposals made by the Coalition against Trafficking in Women, which is published in the very useful Note by the Secretary General on Seminar on Action Against Traffic in Women and forced Prostitution (see paras 53-55 in the UN doc. E/CN.4/Sub.2/AC2/1992/8). The Coalition proposes that a new set of definition of prostitution within the concept of sexual exploitation should be made; and that a (European) convention against sexual salvery should be promulgated. It will take a long time to make a convention, but it will be possible for the UN to make a set of principles of contemporary forms of slavery, which should include most of the proposed set of definition within a reasonable time. In particular, the IED supports the proposal made by the Coalition that the prostitute must be depenalized and the customer must be penalized. All of the proposals should be considered seriously by this WG.

IMPLEMENTATION

1) Role of governments

In the implementation of the standards, the role of the governments is the most important. Unfortunately, most governments have been too busy to come to the WG. The best method of the practical invitation must be, as it was discussed already, to inform the government concerned of the intervention as regards the criticism against it. The WG as a whole should inform the government of the fact as soon as possible whenever the intervention is made.

2) Factors in implementation

There must be at least three factors which we must care for in implementation of the standards: (1) information and factfinding; (2) dialogue with the government concerned; and (3) following up of the issue.

In its activities for the child, the IED thinks that the WG was successful considering those three factors. The works done by the special rapporteur, Mr Vitit Mutarborn and the staff of the Centre for Human Rights should be highly commended. The main reason why the WG was successful was that the WG was given a rapporteur for fact-finding and a supporting staff from the Centre for Human Rights and they committed a great deal of time and energy for the WG's activities.

In its activities for prevention of traffic in persons and the exploitation of the prostitution of others, the WG has not been so successful. The IED thinks the following example is worth considering.

In 1989, the Japanese branch of the International Abolitionist Federation referred to the revision of the Japanese Immigration Control Act and requested the Japanese Government; to protect women migrant workers from sexual exploitation; and suspend deportation of women migrant workers whose status of residence have become illegal and grant them amnesty (see paras 85-88 in the report of the WG: E/CN.4/Sub.2/1989/39).

The precious information has reached the WG. What happened

following this information? Recently, the IED was told by the Japanese lawyers who have been helping those victims of trafficking and sexual exploitation, that the victims were deported very quickly with no proper investigation of those who committed trafficking and sexual exploitation. There is no help for the victims to stay in Japan and to be given a chance to testify in court to punish wrong doers. As a result, there is no substantial punishment of those who should be punished and the victims are suffering.

There are three problems in activities of the WG.

First, there was no further effort for the fact-finding. No rapporteur was appointed on this matter.

Second, a meaningful dialogue with the Japanese Government did not take place, although the representatives were present and responded in the 1989 WG. What they claimed before the WG, however, was nothing more than 'taking the necessary measures to control illegal employment and the stay of foreigners in Japan as well as illegal acts by malignant brokers'. The Government did not discuss nothing about the implementation of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitutions of Others, to which Japan was a Party. The IED would like to remind the WG of the fact that Art. 18 of the convention stipulates the obligation of the investigation of the traffickers; that Art. 19(1) guarantees the victim's rights for 'suitable provisions for their temporary care and maintenance; and that Art. 19(2) guarantees 'Reparation takes place only after agreement is reached with the State of destination'. The IED could not confirm that the Japan has been abide by this convention. The recent information suggests that this is not a case. No serious measure to protect the victims has not been taken by the Japanese Government. The IED is afraid that the Japanese law enforcement officers might not know even the existence of these obligations to protect the victims.

Third, in 1991, the International Commission of Jurists warned the same problem in Japan (para 42 in the report of the WG: E/CN.4/Sub.2/1991/41). Japan said nothing and no improvement was seen. Thus the following up effort failed.

It is important to note that this problem is not unique only for Japan. The exactly same issue is discussed in Europe (paras 42-43 in the report of the seminar: E/CN.4/Sub.2/AC.2/1992/8)

The IED would like to suggest that the WG should make effort to solve these problems. And it seems to be always helpful to consider the three factors mentioned above to make the activities more fruitful.

3) Reporting system

~~It is welcome to have~~ INFORMATION RECEIVED ON THE STATUS AND THE IMPLEMENTATION OF CONVENTIONS ON SLAVERY AND SLAVE-LIKE PRACTICES.

The IED, however, would like to stress that there exists the legal obligation for the Parties to communicate information to the SG of the UN under the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, as the International Commission of Jurists pointed out

(para 81 in the report of the WG: E/CN.4./Sub.2/1989/39. The legal basis of this information is different from resolution based information. The WG should remind the State Parties of this legal obligation and treat the communicated information in separate documents.

4) Conferences and Seminars

As Ms Ksentini pointed out, the European Seminar mentioned above was a big success. Some NGOs and the Interpole also mentioned about conferences and seminars on the subject matters of the WG. These would be very effective to enhance awareness of not only the general public and professionals but also the governments.

For example, the International Abolitionist Federation (IAF) is planning a LATIN AMERICAN REGIONAL CONFERENCE in February 1993 on 'VIOLANCE - POWER- SEXUAL SLAVERY : WOMEN AND CHILDREN ARE PRIMARY VICTIMS'. The governments in the region such as Brazil and the UN may be able to lend support to conferences and seminars such as this one. The IED thinks that the UN Voluntary Fund for Advisory Services may be able to help these activities. The WG may suggest this kind of help to IAF and others.

5) Coordination with other Agencies

The WG can be a very active coordinating body of various Specialized Agency as regards the subject matters. Not only the ILO and Interpole but also many others can support conferences and seminars mentioned above; can give information to the WG; and can try to follow up the activities of the WG.

6) Members and staff

The IED agrees with other speakers who proposed the increase of the members of the WG to include rapporteurs and other relevant experts. The IED thinks that each member of the WG expanded may be assigned a specific subject matter, investigate communications, study situations, pay the spot visits, submit a report to the WG and follow up the issues. Thus, the WG would be very active around the year.

This kind of very active WG in future cannot be supported by a part-time staff. The WG need full-time staff at least one. Full-time means that the staff should be release from other duties of the Centre of Human Rights, so that the staff can work really fulltime. Basically, the Centre for Human Rights needed to be given a dramatical expansion. Doubling the staff might be the minimum requirement for the near future.

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7) Compensation

To cope with slavery and slave-like practice, we always have to think about three stages: (1) prevention; (2) suppression of acts; and (3) rehabilitation of victims. Compensation is the legal consequence of the act and it is necessary for prevention and rehabilitation. This should be discussed by the WG.