

Speech by Director of Public Prosecutions at Trafficking in Persons Research and Data Forum (English only)

Following is the speech by the Director of Public Prosecutions, Mr I Grenville Cross, SC, at the Trafficking in Persons Research and Data Forum today (November 3):

Professor Young, Dr Laidler, Dr Putt, Ladies and Gentlemen,

It is a great pleasure to have been invited to address the opening session of the Trafficking in Persons Research and Data Forum, and I welcome all of those attending. The theme of the Forum is an important one to everyone concerned with the combat of organized crime, and I have no doubt that all of you will benefit greatly from the sessions and the exchanges. I commend the organisers of the Forum for their initiative in placing this focus upon an issue of such pressing social concern.

Since the reunification of Hong Kong with China in 1997, Hong Kong has actively promoted itself at the international level in accordance with the Basic Law. That Hong Kong has succeeded in recent times is due to various factors, one of which is undoubtedly its determination to combat transnational organized crime. Hong Kong plays an important role throughout the Asia/Pacific region, and beyond, in countering all forms of crime, including human trafficking.

Transnational crime poses a grave threat to the international community, and at a time of financial turmoil it is important for those concerned with law enforcement to remain focused, and alert to the dangers we face. Transnational crime takes many forms, and is sometimes blatant, often secretive, always insidious, and at its most dangerous when law enforcers are distracted by other things. Whilst transnational crime is not new, what is alarming is the manner in which its organisers have diversified their activities and broadened their spheres of activity. Criminal syndicates operate at the global level without regard to national boundaries, and to be effective the responses of law enforcers must reflect the new realities. This means, for example, that whereas criminals are prepared to use the worldwide web to correspond, exchange information and effect transactions, those responsible for law enforcement must have specialists of their own who are trained and resourced and able to counter such activities and to hold culprits to account.

In the combat of transnational crime, of whatever type, the prosecutor has a vital role to play. It is the prosecutor who knows how to advise the investigator, how to marshal the evidence, how to obtain assistance from other places, how to present a case, and how to deal with challenges at court mounted by defence lawyers. Prosecutors must be prepared to share ideas and experiences at the practical level, and recent initiatives by the International Association of Prosecutors to promote closer co-operation amongst prosecutors are to be welcomed. Prosecution services must consider how best they can strike at the finances of criminal groups, always remembering that whereas captured personnel can be replaced with ease, lost profits are gone for ever.

Human trafficking is a crime recognised at the international level, and the profits it generates are vast. It is a serious problem in the Asia/Pacific region. Human trafficking may be distinguished from people smuggling, as the traffic in human beings involves the exploitation of the migrant, often for the purposes of forced labour and prostitution. People smuggling involves the illegal transportation of an individual into a place where he or she has no right to be for financial gain, and not necessarily with the loss of human dignity which is invariably associated with human trafficking. Both the trafficking and smuggling of humans are prevalent and each constitutes a significant element of organized crime.

Human trafficking has distinctive characteristics. People are abducted or recruited in the country of origin, transferred through transit regions and then exploited in the destination country. The criminal syndicates which organise the human trafficking are often able to benefit from weak legislation and low detection rates. They are flexible, and can alter their methods as required to circumvent changes in the law and in methods of law enforcement.

The syndicates often regard dealing in humans as less dangerous than money laundering, or drug or weapons trafficking. The profits are just as rewarding. People, of course, have the added advantage of legs, and can run away from trouble. Estimates of the annual value of the trade vary between US\$10 billion and US\$15 billion. Although the protocols to the United Nations Convention Against Transnational Organized Crime draw a distinction between humans who are smuggled and humans who are trafficked, the borderline is often blurred. Someone who has been smuggled can often end up as a victim of trafficking. People may turn to snakeheads in the hope of a better life abroad, but find themselves being trafficked against their will and forced into sweatshops or prostitution. The journeys they endure are often perilous, as demonstrated by the deaths of 58 Chinese immigrants smuggled into Britain in 2000 and the drowning of 353 asylum-seekers on the way to Australia the following year. Women from the Chinese Mainland have died in recent times after being dumped into the sea by traffickers while seeking to reach Taiwan.

What is the situation here in Hong Kong? Hong Kong is a transit and destination point for illegal immigrants, some of whom are subject to debt bondage, sexual exploitation and forced labour on arrival in a destination country. Traffickers have used forced or illegally obtained travel documents to smuggle persons through the airport. Hong Kong is an affluent city, which acts as a magnet. Organized crime plays a role in bringing women to Hong Kong from the Chinese Mainland because of the perceived economic opportunities for women. As so often happens, poverty lures women from their communities to places where they can potentially make good money and send it home. Sometimes women are recruited in their home country to work in Hong Kong as entertainers, waitresses or musicians, but are subsequently coerced into other activities through the debts imposed on them. Although there are occasional reports of foreign domestics being abused, Hong Kong's efforts to regulate the thousands of domestics working in the territory have largely contained this particular problem.

In Hong Kong, we recognise that the problem of human trafficking requires trained law enforcers, prosecutors and social workers who are sensitive to the issues, conversant with the criminality, familiar with the law and attuned to best practice at

the international level. We acknowledge that child sex tourism must be criminalised, that strong laws must exist to counter labour exploitation, and that those who arrange illegal immigration and organise prostitution must face condign punishment. We have, we believe, made real progress in all these areas in recent times, but we remain constantly vigilant.

Although human trafficking is certainly not rampant in Hong Kong, significant resources are devoted to its combat. This includes training frontline law enforcement personnel to identify trafficking victims, collecting and reporting detailed information on suspected cases of trafficking, conducting undercover operations in establishments thought to be fronts for trafficking in women, and providing support to victims of trafficking. As the number of known such victims is small, the government generally refers them to existing social programmes.

The Social Welfare Department and local and international NGOs offer support to persons in need, and there is a 24-hour crisis hotline that enhances co-ordination amongst government departments to deal with reports of sexual violence. Police officers are trained on good practice in the handling of victims and vulnerable witnesses, and a special police unit provides protection. Victims of trafficking are encouraged to be witnesses against those who have brought them to Hong Kong, sometimes in squalid conditions in unseaworthy vessels, and against those who have exploited them after their arrival. Witnesses in fear and child victims may give evidence through live television link as a means of reducing the trauma associated with testifying in open court.

Although Hong Kong does not have a specific anti-trafficking law, it combats trafficking and its consequences through an arsenal of discrete laws. In the 2007 US Department of State's Trafficking in Persons Report, Hong Kong was placed in Tier 1 for fully complying with the Trafficking Victims Protection Act's minimum standards. The Crimes Ordinance and the Immigration Ordinance are the principal instruments used to prosecute traffickers and to frustrate their operations, and those who employ persons who are not lawfully employable are liable on conviction to 3 years' imprisonment and a fine of up to HK\$350,000. Those who traffic in persons for the purpose of prostitution face up to 10 years' imprisonment and an unlimited fine, while those who bring unlawful entrants to Hong Kong face up to 14 years' imprisonment, and a fine of up to HK\$5,000,000. The courts have indicated that although a starting point for sentence of at least 5 years' imprisonment is appropriate for those who bring unauthorised entrants into Hong Kong by sea, this can properly be increased if aggravating factors are present, such as the unseaworthiness of the vessel used and exposure of the persons carried to particular danger.

Hong Kong recognises that international collaboration and strong laws are crucial if human trafficking networks are to be neutralised. Comprehensive arrangements exist at the operational level between our law enforcement agencies and their counterparts in major jurisdictions. There are regular exchanges of information on the personal particulars of individual traffickers, smugglers and facilitators, the methods and the routes they use, and on the details of the syndicates which mastermind the operations. In 2000, Hong Kong participated in the Asian Regional Initiative against Trafficking in Women and Children (ARIAT) in Manila, which addressed the human rights aspect of trafficking, and the ARIAT Action Plan

identifies the strategic areas of prevention, protection, prosecution, repatriation and reintegration. In 2006, Hong Kong participated in the Asian Organized Crime Expert Group Meeting, organised by Interpol, when it addressed the issue of human trafficking from Southeast Asian countries to Western Europe. Our policy and enforcement measures are explained and shared through such fora as the Pacific Rim Immigration Intelligence Conference and the International Organisation of Migration Conference.

In many ways, human trafficking is the modern equivalent of the slave trade, and it is very much a growth industry. The number of people being trafficked continues to rise, and some of the world's most vulnerable people face an uncertain future. It is ironic that as the world clamps down on terrorism and raises barriers to lawful entry, migrants turn to traffickers and smugglers. It would be foolish to pretend that there are any quick solutions to the problems generated by the trafficking in humans, but over the long term the need must be to strengthen the response of criminal justice systems everywhere through effective laws, realistic penalties, increased vigilance, and enhanced co-operation at the national and international levels.

I have no doubt that over the next two days you will have the opportunity to focus in depth on all these issues, and I wish you all a successful Forum. For those of you who are visitors to Hong Kong I hope you will find your stay both rewarding and memorable, and that you will have the chance to see something of our remarkable city.

Thank you.

Ends/Monday, November 3, 2008