



Global Alliance Against Traffic in Women

02 June 2008

H.E. Srgjan Kerim
President of the Sixty-Second Session of the United Nations General Assembly
Office of the President of the General Assembly
United Nations, New York NY 10017

Excellency,

The Global Alliance Against Traffic in Women (GAATW)¹ welcomes the special occasion of the General Assembly's first Thematic Debate on Human Trafficking. GAATW is a network spanning five continents of more than 90 organizations committed to ending trafficking and to the protection of the human rights of trafficked persons and women migrant workers.

We take this opportunity to present our position on the themes under discussion: coordination and cooperation; prevention; and prosecution and protection, and urge you to take our concerns and recommendations into account during this debate, and in any follow-up actions.

At the outset, we note that the UN's own standard for protecting trafficked persons, namely the UN High Commissioner for Human Rights' *Recommended Principles and Guidelines on Human Rights and Human Trafficking*² must serve as the foundation for this debate and for all anti-trafficking efforts of Member States. Counter-trafficking measures must centre the human rights of trafficked persons in "all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims."³

Cooperation, Coordination

The Vienna Forum to Fight Human Trafficking in February 2008 emphasized coordination between all actors including governments, civil society, the private sector, youth and other groups.

It is essential that the United Nations set an example for such mutual cooperation by increasing coordination efforts between the United Nations own Agencies. The ideal model for this would be the establishment of an inter-agency mechanism to strengthen coordination and maximise capacity of the UN Agencies.

At present a multitude of UN Agencies are working to combat trafficking from their individual standpoints. Lack of coordination has led to competition among Agencies and diminished the effectiveness of their efforts. Leadership is also unclear. For example, the background paper for the UN.GIFT Vienna Forum, *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, lists

¹ Global Alliance Against Traffic in Women (GAATW) is a non-governmental organization in special consultative status with ECOSOC.

² UN High Commissioner for Human Rights (OHCHR). *Recommended Principles and Guidelines on Human Rights and Trafficking*, Addendum to the Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, UN document E/2002/68/Add. 1, 20 May 2002.

³ *Ibid.* Principle 1.

12 UN Agencies⁴ that have anti-trafficking programmes, and states that “it is often unclear whether one of these bodies is taking the lead or coordinating the actions of others, or if a national or regional body assumes that role.”⁵

The establishment of an inter-agency mechanism would not only work to enhance cooperation, coordination and effectiveness, but would present a model for national and regional anti-trafficking taskforces around the world.

Prevention

In addition to cooperation and coordination, the form of prevention activity should also be given careful consideration.

In 2007 GAATW commissioned 8 country-studies,⁶ which have been compiled into a publication entitled *Collateral Damage*. This report, which examines what measures states have taken to combat trafficking and the human rights impacts of these measures, has provided a clear overview of the state of anti-trafficking, and a strong evidence base for recommendations.

It is clear that present efforts to prevent trafficking are not protecting the human rights of the persons they are intending to help, and in some cases are causing serious “collateral damage” in the form of negative human rights consequences for both trafficked persons and other groups. We draw your attention to the following:

- **Over-emphasis on border protection and the movement phase of trafficking.** To date, prevention efforts have centered on the movement of potentially trafficked persons by tightening border security and preventing certain low-skilled migrant workers from leaving origin countries or entering countries of destination.

Women have borne the brunt of these repressive measures. An urge to 'protect women' rather than protecting and promoting their rights has led to women from some origin countries being denied the right to leave their country. For example, the Indian Government considered women migrant workers a “particularly vulnerable lot” and “issued an order prohibiting any female household worker below the age of 30 from being employed in the Kingdom of Saudi Arabia under any circumstance.” To avoid this ban, women are having to take riskier migration options than their male counterparts, making them more vulnerable to abuse at the destination point.

Destination countries have also closed their borders in misguided attempts at protection. Many Brazilian women attempting to enter the European Union have been repeatedly denied entrance and repatriated on the grounds that immigration officials thought they looked like “prostitutes” and thus likely to be trafficked. At the same time, screening of immigration or detention centres to identify trafficked persons is largely discouraged and left to NGOs.

The preventative language used here does not mask the violations of women’s rights to freedom of movement and freedom from discrimination. More empowering strategies must be found.

⁴ International Labour Organization, the United Nations Children’s Fund, the United Nations Development Fund for Women, the Division for the Advancement of Women of the Secretariat, the Office of the United Nations High Commissioner for Refugees, the United National Office on Drugs and Crime, the United Nations Population Fund, the United Nations Development Programme, the United Nations Educational, Scientific and Cultural Organization, the United National Interregional Crime and Justice Research Institute, the Office of the United Nations High Commissioner for Human Rights and the United Nations Institute for Training and Research

⁵ UN Office of Drugs and Crime (UNODC). *An Introduction to Human Trafficking: Vulnerability, Impact and Action*. Background Paper for UN GIFT Vienna Forum. 2008. 108.

⁶ The eight countries are: Australia, Brazil, Bosnia and Herzegovina, India, Nigeria, Thailand, United Kingdom and the United States.

- **Need for more emphasis on labour protections and legal work opportunities.** Trafficking takes place after forced or voluntary migration, with coercion or deception that leads to a person suffering exploitative work conditions. To prevent trafficking therefore, far more attention must be given to improving labour conditions for migrant workers. In the case of migrant domestic workers for example, the lack of recognition of ‘domestic work’ as work creates the conditions for widespread exploitation and abuse, sometimes amounting to slavery-like practices. Including this sector under national labour laws, setting a minimum wage, and providing for regular time off would end much serious exploitation.

Protection and Prosecution

Similar concerns can be raised about protection and prosecution measures. In State responses to trafficking so far, prosecution and crime control has been given far more emphasis than protection.

The main reason for this is the law enforcement and border protection approach being taken by governments to trafficking. National security and crime control are frequently prioritised over the rights and wellbeing of trafficked persons, which increases the likelihood for human rights abuses. Two clear examples of this are as follows:

- **Making Protection and Assistance Conditional on Cooperation with Law Enforcement.** Adequate and appropriate protection is a human right for persons who have suffered serious crimes and/or rights violations. Under no circumstances can it be made conditional, particularly if such conditions can further endanger the person. Nevertheless, the practice in all States reviewed by GAATW is to refuse assistance to trafficked persons and treat them as “irregular” migrants, unless they have information that is relevant to a police investigation, and they are willing to cooperate in the investigation and prosecution of the trafficker.

This practice prioritises the interests of the State over the rights of trafficked persons, many of whom have suffered physical and psychological abuse. It is “incompatible with a human rights approach”⁷ and unworthy of Member States that are committed to providing real protection for trafficked persons. Moreover, despite possible short term benefits for law enforcement, evidence suggests that the practice of conditional assistance “contributes to making trafficked persons suspicious of law enforcement agencies and unwilling to talk openly about their experiences, consequently hindering rather than helping with prosecutions.”⁸

- **Over-emphasis on raids as the main means to identify victims.** Raids are frequently carried out without regard to the human rights of the women who are being “rescued”, and often result in further violations of the rights of trafficked persons. In the case of India the anti-trafficking law focuses on the “rescue and rehabilitation” and subsequent “administrative detention” of the presumed trafficked woman. “Once incarcerated, a woman has no right to privacy or bodily integrity and is subjected to invasive medical examinations and inquiries into her personal background.”⁹ “Rescue” policies such as these are antithetical to a human rights approach.

During raids, other migrant women workers who have *not* been trafficked are also regularly removed against their will. These women must get into further debt to continue working, placing them in a more vulnerable situation. For example, a “rescue and rehabilitation” project of Nigerian women deported from Europe lost 80 percent of its participants when those “rescued” left the program to return to Italy. “Many of them had been working voluntarily in the sex industry and were resentful at being ‘rescued’ and deported against their wishes, as it resulted in the deprivation of their livelihood.”¹⁰ Humiliating and dehumanising behaviour frequently accompanies such deportations.

⁷ *Collateral Damage*, GAATW, 2007, Bangkok, page 14.

⁸ *Ibid.* 14.

⁹ *Ibid.* 117.

¹⁰ *Ibid.* 163 quoting from research conducted by Professor Hope Obianwu, Professor of Pharmacology.

A human rights approach that “places people who have or might be trafficked at centre stage and assesses strategies on the basis of their impact on those individuals”¹¹ is essential to effectively combating human trafficking. If States do not provide proper protections to trafficked persons, they are less willing to come forward and less willing to assist in prosecutions, thus hampering anti-trafficking efforts.

As President of the General Assembly we urge you to seriously consider our concerns and to encourage Members States to take up the following recommendations:

Recommendations

Prevention and Coordination

1. **Establish an inter-agency mechanism to strengthen coordination.**
2. **Focus prevention policies** on addressing the root causes of trafficking, namely poverty, gender inequality, traditional social structures and lack of safe, legal migration possibilities.
3. **Reform migration policies** to be in line with national and international anti-trafficking legislation to protect trafficked persons.
4. **Focus demand-reducing policies on all products or services** that are the result of trafficked labour into industries in which workers are vulnerable to severe exploitation (agriculture, construction, domestic work, factory and sex work).

Protection and Prosecution

1. **Ensure that trafficked persons and other migrants are fully involved** in collection of evidence and the development and implementation of anti-trafficking policies.
2. **Use an evidence based approach** when adopting anti-trafficking measures and ensure that measures taken are appropriate and proportionate to the patterns of abuse that are occurring.
3. **End the practice of making assistance to trafficked persons conditional** on their agreeing to cooperate with law enforcement.
4. **Provide services to trafficked persons to facilitate their access to justice** in all arenas where they have suffered, including compensation for unpaid labour and for physical and emotional stress.
5. **End the practice of detaining trafficked persons**, whether by law enforcement officials, NGO’s or social welfare authorities.
6. **Conduct risk and security assessments** prior to repatriating trafficked persons.
7. **Coordinate assistance** between countries for repatriated trafficked persons.

Sincerely,



Bandana Pattanaik
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¹¹ *Ibid.* 7.