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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Global Alliance against Traffic in Women, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[3 June 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Reducing the risk of human trafficking by increasing the opportunities for safe migration

Human trafficking mostly happens in the context of labour migration. People leave home in search of a better life and get exploited by unscrupulous agents or abusive employers. While the third parties make huge profits, the workers often find themselves in a limbo. When assistance reaches them it is often too little or too late. Different languages and legal systems in countries of origin and destination may impede their access to justice. Many times the work they do does not even fall under the labour laws of the destination country. The majority of trafficked persons are migrant workers in the informal, unorganised and unprotected sectors.

Some states are wrongly criminalising or otherwise clamping down on irregular migration, often in the guise of addressing trafficking in persons. This is often at odds with a demand for labour that will, when combined with a lack of regular migration opportunities, push migrant workers into taking more dangerous routes, paying disproportionately high fees, entering into work sites without good training and will often leave them with nowhere to turn to if they face exploitation and abuse. Numerous reports document instances of trafficking (as per the UN definition) and forced labour in the context of migration.

The risk of exploitation or violence neither deters migrants nor should be used to prevent migration. Instead, states need to learn from migrants' experiences to improve provisions for safe migration that benefits the migrant worker, their families and communities, and the state, as remittances contribute to the GDP of the sending countries. As the Secretary-General stated in his report to the General Assembly on violence against women migrant workers, "International migration can be an empowering experience for women: women may leave situations where they have limited options for ones where they exercise greater autonomy over their own lives, thereby benefiting themselves as well as their families and communities."¹

It is essential that trafficking is understood as happening in a context of migration and states must ensure coherence in their policies on migration and trafficking and that they are gender-sensitive and human rights-based. Otherwise restrictions on migration (not necessarily explicitly connected to trafficking) can negatively affect trafficked persons and anti-trafficking laws, policies, programmes and initiatives can negatively impact on migrant workers and their families.

Increasingly, human rights defenders and activists worldwide are calling attention to anti-trafficking measures are not only not effective, they are leading to further human rights violations. In 2007 the Global Alliance against Traffic in Women (GAATW) published *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World*, a report that described the many ways in which anti-trafficking measures often have a negative human rights impact.² This is partly due to a lack of adequate, human rights-based monitoring and evaluation of anti-trafficking responses. Evidence-based approaches to trafficking requires states and other stakeholders to develop effective processes to integrate people who have been trafficked into the planning, implementation and evaluation of anti-trafficking projects.

¹ UN Doc. A/66/212, 29 July 2011, para.5

² Available online at http://www.gaataw.org/Collateral%20Damage_Final/singlefile_CollateralDamagefinal.pdf

The inclusion of evidence from survivors of trafficking is not just a call made by non-governmental organisations. A decade ago, the UN recognised, in the UN High Commissioner for Human Rights' Recommended Principles and Guidelines on Human Rights and Human Trafficking, "the important contribution that survivors of trafficking can, on a strictly voluntary basis, make to developing and implementing anti-trafficking interventions and evaluating their impact."³ Similarly, the 2011 UN General Assembly resolution on the protection of migrants requested that states and other stakeholders undertake "dialogues on migration that include countries of origin, transit and destination, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, inter alia, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants".⁴

Several governments now deliver pre-departure trainings and other preparatory efforts in an attempt to prevent abuse of migrant workers. GAATW is reviewing the actual content of these trainings and researching users' assessments of the trainings and evaluate whether or how the content in pre-departure trainings prevents trafficking and/or exploitation. The users – the intended beneficiaries – of these trainings with whom GAATW is examining these pre-departure initiatives are women trafficking survivors and returnee migrants. For many trafficked and exploited women, participation and asserting one's voice is no small feat, particularly when one has operated in contexts where silence may be the only survival option available. GAATW's research involves strengthening women's belief in themselves as workers with rights, as agents in their own lives capable of assessing and resisting exploitation and violence, and as knowledgeable persons entitled to engaging with local power structures and able to assist other women in their community. Through in-depth, qualitative engagement with the women and their communities we can differentiate between forced/distress migration and migration for better opportunities. Subsequently a "right to live and the right to leave" strategy can be used in advocacy work, rather than a simplistic promotion or condemnation of migration. Furthermore, empowering survivors of trafficking can strengthen prosecutions of traffickers.

GAATW's research is on-going, but what women trafficking survivors and returned migrants are telling us is that the information they are not receiving adequate or accurate information prior to their migration. The pre-departure training programmes for women migrating for domestic work are a very recent initiative and of the three countries we are working in only Bangladesh has a comprehensive three week long programme. But even this comprehensive module is not strong on skills transfer and does not equip the women in any way to counter abuse in destination countries. In fact it shies away from even discussing the issue of violence and abuse directly. The women we are working with had migrated from countries in South Asia – Nepal, India and Bangladesh. Many had migrated to Middle Eastern countries as domestic workers. In most of these countries they are bound to their employers through the Kafala system and have no freedom to change jobs. The women complain about racist, inhuman treatment in households, inability to turn to anyone when they face problems, non-payment or irregular payment and extremely long working hours without any rest. Upon return they face stigma and discrimination from their own families. Many also found that their husbands and other family members had misused all the money they had sent home. Their experiences lead us to believe that human rights violations are both cause and consequence of migration.

³ Recommended Principles and Guidelines on Human Rights and Human Trafficking, Addendum to the Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, UN Doc. E/2002/68/Add.1, 20 May 2002, Guideline 3, para.6

⁴ UN Doc. A/C.3/66/L.52/Rev.1, 11 November 2011, Protection of migrants, para.9(a)

What is to be done? Placing bans on female labour migration does not work. It has only made a bad situation much worse, women have taken more risks and gone through illegal channels. Based on our consultation with returnee migrant women we recommend the following.

Recommendations

Governments in sending countries should:

- Step up the information campaign on safe migration. Provide:
 - Country-specific information on major destination countries, including legislation in those countries, should be available in simple accessible language in the local language;
 - Audio-visual information on the countries needs to be made available to prospective migrants;
 - Pre-migration information that contains accurate information on costs of migration and salary that one would get at the destination so that migrants can make realistic calculations.
- Review training modules and provide updated skills development trainings using audio-visual data;
- Training modules must contain information on violence against women and suggestions on what steps to prevent or seek justice and redress for such violence could be taken in countries of destination;
- Training modules must have a strong language component so that migrants are able to communicate in the destination country;
- Work with authorities in destination countries to bring domestic work under the purview of labour laws and abolish the Kafala system;
- Urge the authorities in destination countries to undertake public education campaigns to bring about attitudinal changes in their attitude towards migrant workers in general and domestic workers in particular;
- Where they do not already exist, set up embassies in destination countries, and post trained labour attaches there who should and must have permission to visit private homes to check on the welfare of their citizens who are working as migrant domestic workers;
- Strengthen support systems for victims of violence and ensure their access to them in accordance with human rights standards, irrespective of their immigration status. Such support should be linguistically and culturally appropriate, and should include provision of information on women migrant workers' rights, their access to redress, legal, psychological, medical and social assistance, access to shelters and compensation for damages;⁵
- Do not respond to grievances of migrant domestic workers with a ban; make migration safe, beneficial and empowering for all.

⁵ UN Doc. A/66/212, 29 July 2011, para.61.