

Global Alliance Against Traffic in Women (GAATW)

Statement for the Informal Interactive Hearings on International Migration and Development

15 July 2013



The Global Alliance Against Traffic in Women (GAATW) is a network of more than 100 non-governmental organisations from Africa, Asia, Europe, Latin America and the Caribbean, and North America. We have been researching human trafficking and learning from trafficking survivors for nearly twenty years. GAATW promotes rights of women migrant workers and trafficked persons and believes that ensuring safe migration and fair work places should be at the core of all anti-trafficking efforts.

Human trafficking occurs in the context of labour migration. The majority of trafficked persons are migrant workers in the informal, unorganised and unprotected sectors.

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 countries of origin. As the UN Secretary-General has stated, for women migrants "[i]nternational 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

Instead, we often see States wrongly criminalising or otherwise clamping down on irregular migration, often in the name of preventing trafficking in persons. This is often at odds with a demand within their country for migrant labour that will, when combined with a lack of regular migration opportunities, push migrant workers into taking more dangerous routes, paying disproportionately high fees that may leave them in a situation of debt bondage, entering into work sites without good training, and will often leave them with nowhere to turn to if they face exploitation and abuse.

There remains a lack of clarity about the links and differences between smuggling and trafficking and this confusion harms anti-trafficking efforts and it harms migrants. There are blurry lines between these categories on the ground. However, conflating or linking them leads to criminalisation or stigmatisation of the migrant and all people who assist with the migration process, and a denial of their human rights. This leads to the over-policing of migrants and the under-policing of people who have been trafficked, in which States evade their obligation to identify survivors of trafficking and provide them with redress. Furthermore, it prioritises a law enforcement rather than human rights approach and shifts the focus of anti-trafficking efforts away from the individual who has been trafficked and towards the security of the State. Trafficking is a crime against the individual; smuggling is a crime against the sovereignty of the State. Ultimately, smuggling results from State policies, including the increased securitisation of borders, immigration policies, and labour protection measures.

¹ *Violence against women migrant workers, Report of the Secretary General, UN Doc. A/66/212, 29 July 2011, para.5*

Reliable and accurate data on human trafficking is scarce and often questionable or misused.² GAATW, its members and allies, have continued to witness many examples of laws or government policies that have negative consequences for the people they are intended to benefit.³ These often harmful strategies take many forms, including: making assistance and protection for trafficked persons conditional on cooperation with law enforcement officials; conflating trafficking solely with sex work; tightening border restrictions and an increasing unwillingness of States to give rights to workers; the discriminatory and protectionist measures taken by some States to restrict women's freedom of movement; gender stereotyping in anti-trafficking responses that fail to identify men who are victims of trafficking, thus denying their access to necessary services; class discrimination that results in anti-trafficking measures causing more hardship to individuals who are poor than to those who are better off and better educated. What is common to all these flawed responses is that they will fail in their goal to end human trafficking and that they will further abuse the human rights of the individuals affected by trafficking.

Debates in anti-trafficking work about demand need to be grounded in evidence in order to move beyond simplistic "supply and demand" analogies and a focus on ending the demand for sex work, rather than on exploitative labour practices across all sectors, that have typically been central to anti-trafficking debates.⁴ An example of this includes critically analysing the manufactured moral panics about the role of international sporting events in creating a "demand" for trafficked women and children. This always garners a lot of media hype and attention by anti-prostitution groups, but there is no evidence that international sporting events create a demand in trafficking into the sex sector.⁵ Similarly, the prevention of trafficking is often used to justify the criminalisation of people who pay for sex, despite there being a growing body of research that supports sex workers' argument such measures have not reduced trafficking or sex work, but has harmed HIV responses, increased sex workers' disproportionate exposure to a range of risks including violence, and led to other abuses of their human and labour rights.⁶

² Paul Buckley, 2013, The bias in counter-trafficking data and need for improved data collection: reflections on trafficking onto fishing boats, *The Trafficking Research Project* (blog), 10 May 2013

³ GAATW, 2007, *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World*

⁴ Anti-trafficking discussions on demand have historically been stymied by anti-prostitution efforts to eradicate the sex work sector by criminalising clients, despite protests from sex workers rights groups and growing evidence that such approaches do not work. See for example, Canadian HIV/AIDS Legal Network, *Sex Work Law Reform in Canada: Considering problems with the Nordic model*, Briefing Paper, January 2013; Dodillet, S. and Östergren, P. *The Swedish Sex Purchase Act: Claimed Success and Documented Effects*, Conference paper presented at the International Workshop: Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges. The Hague, March 3 and 4, 2011; FIRST, *Swedish Model a Failure*, 2010; Östergren, P. (n.d.) *Sex workers Critique of Swedish Prostitution Policy*; Thing, S., Jakobsson, P., and Renland, A. *When Purchase of Sex is a Crime: About New Legal Measure and its Impact on Harm Reduction Among Sex Workers in Sweden and Norway*. Presented at International Harm Reduction Association's 22nd International Conference, 3-7 April 2011, Beirut, Lebanon.

⁵ GAATW, 2011, *What's the Cost of a Rumour? A guide to sorting out the myths and the facts about sporting events and trafficking*.

⁶ See GAATW, *Moving Beyond 'Supply and Demand' Catchphrases: Assessing the uses and limitations of demand-based approaches in Anti-Trafficking*; Godwin, J., 2012, *Sex Work and the Law in Asia and the Pacific: Laws, HIV and human rights in the context of sex work*, UNAIDS, UNFPA, UNDP; Global Commission on HIV and the Law, 2012, *Risks, Rights & Health; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, UN Doc. A/HRC/14/20, 27 April 2010.

What this demonstrates is the need to take an evidence-based approach to developing anti-trafficking measures in order to ensure that the measures are proportionate and appropriate to the patterns of abuse that are occurring – rather than the often sensationalist claims made about the nature and scale of trafficking in persons. There will be no single approach that will work in all situations. Having a greater focus on detecting and stopping labour exploitation, including cases of forced labour and slavery-like practices, rather than focusing primarily on recruitment of people into such forms of abuse will reduce the negative impact that many anti-trafficking measures to date have had on a wide range of migrants.

Our objective must be to make migration safe. GAATW recommends the following as some of the principles that must undergird efforts towards achieving this aim:

- Measures to promote and ensure safe migration and labour rights will be the most effective response to the threat of trafficking in persons.
- The international human rights framework should be the primary framework for intergovernmental governance of migration.
- Human rights-based labour standards, improved working conditions, and allowing workers to organise across all sectors and irrespective of their migrant status, will reduce opportunities for the exploitation of labour.
- Labour laws and protections must apply to all forms of work, including the informal sector, sectors dominated by women workers, and those employing migrants in an irregular situation.
- The criminalisation of migration and of migrants, including smuggled migrants and migrants in irregular status, must stop.
- Trafficking and smuggling must be completely differentiated in the laws, policies, programmes and initiatives developed to address them.
- The protection afforded by international human rights law must extend to border zones so that these do not become zones of “exceptionalism”, exempted from compliance with all of the safeguards and checks and balances that protect migrants’ rights.
- Women must have independent migration status, affirming their autonomy and protecting and fulfilling their rights throughout the migration process, including the right to work and access to redress.
- Migrants, including survivors of trafficking, people affected by migration, civil society and trade unions, must be able to participate in the development of laws, policies, programmes and initiatives on migration and migrants’ rights.

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gaatw@gaatw.org | www.gaatw.org