

Domestic violence - lack of equal opportunities - patriarchy - poverty - neglect - migration - deceit - human trafficking - inhuman treatment - objectification - sexual violence - fear - abuse - exploitation - physical protection - home - integrity - recovery - legal protection - dignity - safety - traumatisation - economic independence - freedom - choice - compensation - neglect - migration - deceit - human trafficking - inhuman treatment - objectification - sexual violence - fear - abuse - exploitation - physical protection - home - integrity - recovery - legal protection - dignity - safety - traumatisation - economic independence - freedom - choice - compensation

Violation of Women's Rights

A cause and consequence
of trafficking in women



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La Strada International

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Table of contents

Foreword 7

Acronyms 8

Terminology 9

Executive summary 11

Recommendations 17

1 Introduction 21

2 Human trafficking in the La Strada countries 25

2.1 What is trafficking in human beings? 25

2.2 The scope of trafficking in human beings 29

2.3 Trafficking in human beings in the La Strada countries 31

3 Trafficking as a cause and consequence of human rights violations 38

3.1 Women's Human Rights 38

3.2 Trafficking as a cause of human rights violations 39

3.3 Trafficking as a consequence of human rights violations 42

Conclusion 46

4 Women's rights in the legislative framework of the La Strada countries 47

Conclusion 51

5 The social position of women in the La Strada countries 52

5.1 Patriarchal stereotypes in the La Strada countries 52

5.2 Domestic violence 54

Conclusion 64

6 The position of women in the labour market in the La Strada countries 67

- 6.1 The transition process 68
- 6.2 Unemployment of women 69
- 6.3 No equal pay for equal work 71
- 6.4 Violation of rights in the labour market 73
- 6.5 Double 'burden' for working women 75
- 6.6 Feminisation of poverty 76
- Conclusion 79

7 The position of women in the migration process 82

- 7.1 Feminisation of migration 82
- 7.2 Lack of rights and social inclusion for migrants and trafficked persons 85
- Conclusion 92

8 Conclusion 95

Annexes 100

Bibliography 102

La Strada member organisations 109

Foreword

Trafficking in human beings is a blatant violation of human rights which in the past few years has caused public and political outrage and led to the drafting and implementation of international treaties and national action plans to fight this inhuman phenomenon. Unfortunately, too often, the root causes of trafficking are not adequately addressed in existing anti-trafficking measures.

It is generally known that women are disproportionately affected by the social and economic factors that are known to be root causes of trafficking, namely, poverty, discrimination, gender-based violence, armed conflict, unemployment and inequality and oppressive social structures. If we are sincere in our determination to end trafficking, then we have to start looking into the factors that cause trafficking and examine the social and economical structures that put people, and in particular women, in a position that increases their vulnerability to exploitation and abuse.

The report *Violation of women's rights: a cause and consequence of trafficking in women* by La Strada International is an important first step in analysing the link between trafficking in women and the violation of women's rights, which calls for international discussion and further research.

Improving and promoting women's rights will not lead to instant successes, but it is the only way to create a sustainable and long-lasting new equilibrium in world society in which women are free from violence, exploitation and abuse and empowered to determine their own futures.



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Acronyms

BiH	Bosnia and Herzegovina
CEDAW	UN Convention on the Elimination of All Forms of Discrimination against Women
CoE	Council of Europe
CoE CAT	CoE Convention on Action against Trafficking in Human Beings
DEVAW	UN Declaration on the Elimination of Violence Against Women
ECHR	CoE European Convention on Human Rights
EU	European Union
ICCPR	UN International Covenant on Civil and Political Rights
ICESCR	UN International Covenant on Economic, Social and Cultural Rights
ICRMW	UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ILO	International Labour Organisation
IOM	International Organisation for Migration
LSI	La Strada International
NGO	Non-Governmental Organisation
OSCE	Organisation for Security and Co-operation in Europe
UN	United Nations
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
UNOHCHR	United Nations Office of the High Commissioner for Human Rights

Terminology

Debt bondage

When a person works to pay off a debt or loan, and is not paid for his or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt.¹

Exploitation

The act of taking advantage of something or someone, in particular the act of taking advantage of another person for one's own benefit.² With regard to trafficking, 'exploitation shall include, at the minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.'³

Forced Labour

All work or services that are extracted from any person under the menace of any penalty and for which the said person has not offered him or herself voluntarily.⁴

La Strada countries

The countries in which La Strada is represented, namely, Belarus, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Macedonia, Moldova, the Netherlands, Poland and Ukraine.

1 Anti-Slavery International, *Protocol for Identification and Assistance to Trafficked Persons and Training Kit* (2005) www.antislavery.org/homepage/resources/PDF/Protocoltraffickedpersonskit2005.pdf.

2 IOM, *The IOM Handbook on Direct Assistance for Victims of Trafficking* (2007), 332.

3 Article 3a of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, www.unodc.org/pdf/crime/a_res_55/res5525e.pdf. (hereafter the Palermo Protocol).

4 Article 2 of ILO Convention concerning Forced or Compulsory Labour 1930 (No.29) www.unhcr.ch/html/menu3/b/31.htm.

Trafficked persons

La Strada regards trafficked persons as important agents in the improvement of their own situation, rather than passive recipients of services or victims in need of rescue, and therefore does not use the term ‘victims of trafficking’. The concerns, needs and views of trafficked persons are a constant element influencing all La Strada’s work and are always considered before any action is taken.

Trafficking in human beings

The recruitment, transportation, transfer, harbouring or receipt of persons by threatening or using force or other forms of coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person exercising control over another person for the purpose of exploitation. Exploitation shall include, at the very least, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or similar practices, or the removal of organs.⁵

The present report uses the term ‘trafficking in human beings’, rather than ‘trafficking in persons’ or ‘trafficking in people’. Trafficking in human beings here excludes other forms of trafficking, such as drugs trafficking or trafficking of fire-arms.

Smuggling

International human rights instruments make a clear distinction between trafficking and smuggling. Smuggling involves facilitating undocumented stay or entry and is addressed in a special protocol which defines smuggling as ‘the procurement, in order to obtain, directly or indirectly, a financial or other material benefit of the illegal entry of a person into a State of which the person is not a national or is not in permanent residence’.⁶

⁵ Article 3a Palermo Protocol.

⁶ Article 3a of the Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime, www.unodc.org/pdf/crime/a_res_55/res5525e.pdf.

Executive summary

This report analyses the violation of women's rights as both a cause and a consequence of trafficking in women. Although trafficking affects both men and women, it is not a gender-neutral phenomenon, as women are particularly vulnerable to trafficking due to their social and economic position, as well as their position in the migration process. It is therefore important to understand the gendered factors that increase vulnerability to trafficking, and to raise awareness of the rights violations that trafficking causes. It is by clarifying the link between trafficking in women and the violation of women's rights that trafficking can be effectively prevented and women vulnerable to trafficking can be more successfully supported.

This report is the result of a desk research on the violation of women's rights and trafficking in women in the nine European La Strada countries, which are countries of origin and transit as well as being countries of destination. Trafficking occurs both within as well as across borders. Trafficking can be regarded as a cause of human rights violations because the very act of trafficking constitutes a breach of, amongst others, the right to dignity and security, to move freely and to work in just and favourable conditions.

La Strada follows a human rights-based approach to prevention of trafficking. This implies that all anti-trafficking measures should aim at the promotion and protection of human rights and that the standards and principles of the international human rights system should be integrated into legislation, policies and programmes.

It is widely acknowledged that poverty, unemployment and a cultural context in which violence against women is tolerated are among the most important causes of trafficking. Another important factor is the demand for cheap labour and services in female-designated sectors of work. As the UN Rapporteur on Violence against Women noted, 'the lack of rights afforded to women serves as the primary causative factor at the root of both women's migration and trafficking in women [...]. By failing to protect and

promote women's civil, political, economic and social rights, Governments create situations in which trafficking flourishes.⁷

All La Strada countries have ratified important human rights treaties containing provisions on the equality of men and women, in particular the CEDAW Convention, thereby committing themselves to protecting, respecting and promoting the rights of women. The majority of the La Strada countries have initiated legislation on promoting gender equality and combating violence against women. In practice however, it is evident that the governments of the La Strada countries are not fulfilling their obligations.

Women's rights violations that exacerbate trafficking can be classified into three separate yet interrelated areas, namely, the position of women in society, in the labour market and in the migration process.

Regarding the social position of women, this report focuses on two aspects relevant to trafficking which show that gender inequality is persistent. For instance, it is evident that patriarchal values and norms are widespread, reinforcing the idea that women are subordinate to men. In most of the La Strada countries that have undergone the transition from centrally planned to market economies and related political transformations, an increase in patriarchal values can be detected. Gender equality has come to be associated with the communist regime, and gender-role stereotyping, which attaches specific roles and responsibilities to women, have become more prevalent. This means that women are pushed from the public into the private spheres, which influences the position of women in the family, in the labour market and in the migration process. It is this view of women which perpetuates the notion that they are objects rather than subjects.

The unequal power relationship between men and women is also reflected in the fact that domestic violence is pervasive. Although men can also be subjected to domestic violence, the vast majority of victims are women and children. Currently, not enough mechanisms are in place in the La Strada countries to effectively tackle domestic violence. This is however, of the

⁷ Human Rights Commission, *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, on trafficking in women, women's migration and violence against women, submitted in accordance with Commission on Human Rights resolution 1997/44 E/CN.4/2000/68* (2000), 54.

utmost importance, as the experience of La Strada shows that there is a high incidence of domestic violence among trafficked persons, indicating that this violence is one of the factors contributing to trafficking. By preventing domestic violence and providing effective protection and assistance to victims and witnesses of violence, the risk of falling victim to trafficking might be reduced. Although more comprehensive research is necessary on the link between domestic violence and trafficking in human beings, the evidence presented in this report suggests that the prevention of and protection from domestic violence are imperative, and should be seen as indirectly combating trafficking.

Because the social and economic positions of women are interrelated, an important strategy for preventing violence against women, including trafficking and domestic violence, is the creation of economic independence for women. Creating opportunities for economic independence provides women with the tools to take their lives into their own hands. As this report shows, in all La Strada countries women are faced with unequal opportunities in the labour market. In the majority of La Strada countries, unemployment rates among women are higher than those for men. Furthermore, women who do have a job tend to be employed in the unregulated informal market, or in female-designated sectors of work where the wages are generally lower than in other sectors. High unemployment rates and low wages lead to a situation that is also referred to as the feminisation of poverty. Finally, women are underrepresented in high managerial and political positions, which further hampers the possibility to implement effective policies and programmes for the advancement of women.

The social position of women in the majority of La Strada countries is therefore characterised by unequal power relations between men and women and by the high prevalence of domestic violence. This situation impacts on women's economic position, as the latter is affected by a lack of equal opportunities in the labour market and the corresponding feminisation of poverty. La Strada strongly believes that violence against women and thus trafficking could be reduced by empowering women through increasing their economic independence.

Lack of opportunities in the labour market and the feminisation of poverty have forced women to migrate. They are more likely to accept promising job offers in other countries, which can lead to trafficking. As the UN Rappor-

teur on Violence Against Women noted, '[t]he failure of existing economic, political and social structures to provide equal and just opportunities for women to work has contributed to the feminisation of poverty, which in turn has led to the feminisation of migration, as women leave their homes in search of viable economic options.'⁸

The vulnerability of women to trafficking is in turn increased by the specific position women have in the migration process. Because of restrictive and repressive immigration policies devised and implemented by countries of destination, legal migration options are increasingly scarce and would-be migrants use the facilities offered by smugglers and other intermediaries out of necessity. This leaves them exposed to deceit, violence, abuse and exploitation. As it is impossible in most destination countries for migrant workers to work in low-wage and female-designated sectors in a legal manner, the irregular status of female migrant workers renders them especially vulnerable to trafficking and other infringements of their basic human rights.

Undocumented migrant workers are entitled to have their human rights protected under international law. However, states typically fail to protect these rights, which leads to social exclusion and a lack of effective remedies for violations suffered. This is particularly unacceptable in the case of trafficked persons; their rights to protection and assistance are made conditional upon their cooperation with the law enforcement bodies in all La Strada countries, constituting once again a violation of their rights.

As long as women cannot live their lives free from the threat of violence and discrimination, and as long as they do not have equal opportunities in the labour market, they will choose to work abroad and labour migration will continue. As long as legal migration is impossible or severely restricted, migrant workers are forced to take risks and are practically driven into the arms of the criminal networks that control the illegal routes into the countries of destination. As long as these countries are not willing to give trafficked persons, as well as (undocumented) migrants, the rights to which they are entitled by international standards, exploitation and abuse will continue.

8 Ibid., 58.

On the basis of the findings presented in this report, La Strada calls on governments to end this vicious circle and take women's rights seriously. As gender inequality is one of the main factors contributing to trafficking, La Strada urges governments to respect, protect and promote human rights and especially the human rights of women, irrespective of their legal status, in order to prevent and combat trafficking effectively. As human rights violations are also a consequence of trafficking and can seriously infringe upon the rights of others, La Strada urges all governments to place human rights at the core of all policies and specifically anti-trafficking measures.

In addition, in order to eliminate the widespread stereotypes resulting from patriarchal norms and values, La Strada urges governments to launch campaigns to increase public awareness and promote equality between men and women. Such public awareness campaigns should be supported by effective legislation. In order to tackle violence against women, La Strada calls on governments to see that this legislation is implemented, sanctioning all forms of violence against women (and specifically domestic violence) and ensuring the long-overdue prosecution and punishment of such crimes.

To increase equal opportunities in the labour market, La Strada urges governments to incorporate gender equality and mainstreaming into all (labour) legislation. The sanctioning of discrimination in the labour market, as well as sexual harassment, should be included in this legal framework. Successful implementation of such legislation can only be achieved through increased political will accompanied by sound financial resources.

Moreover, La Strada calls on governments to adopt immigration policies that are not only based on demographic or economic needs but take into account human rights. These policies should also be gender-sensitive and aimed at empowering women migrants, instead of abandoning them to their fate. It is also imperative that governments, employers and recruitment agencies assume responsibility and take action to end exploitative labour conditions. The protection of (migrant) workers' rights in those sectors or activities where forced labour or services are likely to occur must be improved. People with informal and unregulated work should be properly protected by labour laws to ensure that all workers enjoy the same labour rights.

Regarding the rights of trafficked persons, it is essential that the protection of and support for trafficked persons is no longer made conditional upon cooperation with law enforcement agencies, but is based on human rights. Trafficked persons should have access to adequate facilities in accordance with international standards, such as assistance and support, protection, legal aid and compensation for any injuries suffered. Action should be taken to prevent trafficked persons from suffering further rights infringements.

To conclude, it is by respecting, protecting and promoting the rights of women that progress can be made to ensure an end to trafficking in women. It is therefore time that women are protected not only on paper, but also in practice. It is time to take women's rights seriously.

Recommendations

General recommendations

- As gender inequality is one of the main factors contributing to trafficking, governments should respect, protect and promote human rights and especially the human rights of women, irrespective of their legal status, in order to prevent and combat trafficking effectively.
- As trafficking is also a cause of human rights violations and can seriously infringe upon the rights of others, governments should place human rights at the core of all policies and specifically anti-trafficking measures.

Recommendations for improving the social position of women, to eradicate gender-stereotype attitudes and (domestic) violence

- Campaigns promoting equality between men and women should be organised to raise public awareness. These campaigns should be targeted towards men as well as women, in order to eliminate stereotype attitudes resulting from patriarchal norms and values. This message should be included in school curricula in order to ensure that children become aware of gender equality from an early age. The media should also be encouraged to promote the equal status and responsibilities of women and men in both the private and public sphere.
- Awareness-raising campaigns should emphasise that violence targeted at women is unacceptable and a serious violation of their rights.
- The governments of La Strada countries should ensure that effective legislation is implemented, in particular sanctioning all forms of violence against women (and specifically domestic violence) to ensure the prosecution and punishment of such crimes.
- The legal framework should include restraining and eviction orders targeted at the perpetrators, as well as offering counselling in order to assist in their rehabilitation. The cooperation of perpetrators should not, however, negatively affect judicial procedures for legal redress and compensation.
- This legal framework must include effective services for victims of domestic violence, as well as immediate means of redress and protec-

tion, including protection orders and access to free legal aid and accessible shelters in sufficient numbers. Services such as shelters for victims of domestic violence should be available in all countries, especially in remote rural areas, and run in collaboration with NGOs experienced in protecting women from violence.

- In order to be effective, the legal framework must be accompanied by sufficient financing in order to ensure the effective operation of responsible organisations, as well as sustainable support and services for victims of domestic violence.
- Governments should establish training programmes in close cooperation with experienced NGOs for public officials such as law enforcement personnel, the judiciary, health-care providers, social workers and teachers, to make sure they are familiar with the laws and to ensure they are able to recognise and address domestic violence in the proper manner.
- In order for the legal framework to be effectively implemented, a monitoring body should be put in place in each country in which NGOs are involved, with at least a consultative status.
- For all persons subjected to domestic violence, information as to their rights should be readily accessible, either through intervention centres or specific hotlines. Hotlines should be set up (as far as this has not already been done) where victims of domestic violence can seek advice and assistance and where domestic violence can be reported anonymously. These hotlines should be staffed by qualified personnel.
- All La Strada countries should collect gender-sensitive data regarding violence against women, in order to develop sustainable strategies to combat this human rights violation.
- More comprehensive research needs to be carried out on domestic violence and on the link between trafficking in human beings and domestic violence, so as to be able to tackle the problem effectively.

Recommendations for improving the position of women in the labour market

- Governments should promote equal opportunities in the labour market by incorporating gender equality and gender mainstreaming in all (labour) legislation.
- There is a need for stronger political will, accompanied by the allocation of sufficient financial resources for successful implementation of the legislation on gender equality.

- Governments should adopt and implement national action plans which incorporate measures in the labour market for the advancement of women.
- Transparent job evaluation and wage-setting mechanisms should be established in order to create standards governing equal pay for equal work.
- A legal framework should be put in place which sanctions discrimination in the labour market and sexual harassment by employers.
- Law enforcement agencies and the judiciary should receive training in order to become more gender-sensitive regarding women's rights in the labour market.
- Control mechanisms should be established in cooperation with experienced NGOs to assess whether progress is being made in the implementation of laws.
- Governments should take measures such as the adoption of quota systems to ensure that women are proportionally represented in political and economic decision-making bodies.
- Women need to be informed of their rights regarding employment, such as the prohibition of discrimination and the principle of equal pay. Employers should be made aware that discrimination against women is a criminal offence.
- Affordable child care should be made available in all countries, as well as flexible working hours, so that women and men can combine work with the care of children, which would prevent child care from being a purely female responsibility.

Recommendations for improving the protection of women's rights in the migration process

- The risk of trafficking diminishes if legal migration channels and opportunities for regularisation of migrant workers are created, especially for female-designated sectors such as domestic services, in the countries of destination. This will provide rights and entitlements to female migrants and reduce the risk of exploitation.
- States should adopt immigration policies which are based on a human rights approach and not on demographic or economic needs. These policies should also be gender-sensitive and aimed at empowering women migrants, instead of placing them in vulnerable situations.
- States and private sectors must assume responsibility and take action to end exploitative labour conditions. The protection of (migrant) workers

in those sectors or activities where forced labour or services are likely to occur must be improved. People with informal and unregulated work should be protected by labour laws to ensure that all workers enjoy the same labour rights. For example, migrant workers should have the right to form or join associations of their own as a way to defend their labour and other rights.

- Protection of and support for trafficked persons should not be made conditional upon cooperation with law enforcement bodies, but based on their basic human rights. Trafficked persons should be provided with adequate facilities in accordance with international standards.
- The return to the country of origin of trafficked persons should be safe and voluntary. In any case, return should not take place before an individual risks assessment based on the particular circumstances in the country of origin has been carried out.
- Notwithstanding the fact that all undocumented migrants are entitled to the protection of basic human rights as outlined in international human rights treaties, all La Strada countries which have not yet done so must ratify and implement the United Nations International Convention on Protection of Rights of All Migrant Workers and Their Families in order to improve the protection of the rights of migrants and their families.
- All La Strada countries which have not yet done so must ratify the Council of Europe Convention on Action against Trafficking in Human Beings.
- In countries of origin, public campaigns should be conducted aimed at developing safe migration for potential migrants, taking into account the peculiarities of different regions of countries where people migrate from, and the working conditions of the countries of destination. Such campaigns should increase the awareness of potential migrants as to their rights.
- Official employment service centres should be put in place in countries of origin where migrants can receive relevant information to prepare for life and work abroad, about human rights protection and fundamental freedoms guaranteed under international treaties and national laws, about ways to protect their rights in a foreign country and places to apply for assistance.
- The staff of embassies and consulates in the main destination countries should be equipped with trained migration officers in order to ensure timely and adequate assistance and the protection of migrant workers and trafficked persons abroad.

1 Introduction

*'Violations of human rights are both a cause and a consequence of trafficking in persons. Accordingly, it is essential to place the protection of all human rights at the centre of any measures taken to prevent and end trafficking. Anti-trafficking measures should not adversely affect the human rights and dignity of persons and, in particular, the rights of those who have been trafficked, migrants, internally displaced persons, refugees and asylum-seekers.'*⁹

Trafficking in human beings is one of the most serious human rights violations prevalent today. As quoted above, violations of human rights are both a cause and a consequence of trafficking in human beings. Trafficking is a cause of human rights violations, as the act of trafficking violates human rights. The human rights of trafficked persons who are treated as commodities rather than human beings are violated because they are exploited as workers, are deprived of their freedom of movement, often denied access to health care and, in the worst case scenario, deprived of their right to life.

Trafficking is also a consequence of human rights violations, as trafficked persons, particularly women, have frequently experienced rights violations prior to being trafficked, exposing them more to the risk of exploitation and abuse.

The aim of this report is to shed light on the relationship between trafficking and human rights violations, focusing especially on women's rights. This report aims to explain how trafficking is a cause of (further) human rights violations. Furthermore, it examines how the violation of particular women's rights may increase vulnerability to trafficking. This is illustrated by case studies from the nine La Strada countries which highlight the violation of women's rights and the link between this violation and trafficking.

⁹ UNOHCHR, *Recommended Principles and Guidelines on Human Rights and Human Trafficking* (2002), 6.

This report comes at a time when it is more necessary than ever to address the root causes of trafficking. Even though almost every debate, international treaty and programme mentions the economic, social and cultural causes of trafficking, so far little attention has been paid to the gender aspect of these causes. Moreover, little has been undertaken to effectively address these contributory factors. La Strada believes, however, that it is only by addressing the root causes of trafficking that it can be ended.

Although not only women fall prey to trafficking, it cannot be considered a gender-neutral phenomenon. Women are disproportionately affected by poverty, unemployment, discrimination and violence, which are all widely recognised as risk factors. At the same time there is an increasing demand for labour in some traditionally female sectors of the labour market such as domestic work. This is accompanied by a general demand for cheap labour in the service industries, which generally employ informal and female labour. As these 'feminised' sectors are not commonly considered to be work and are seldom protected by labour laws, exploitation, abuse and violence are widespread. The lack of legal migration opportunities for these types of work, combined with the lack of legal protection, exposes women to the considerable risk of abuse and violence, including trafficking. As La Strada argues that gender inequality plays an important part in trafficking, the focus of this report is on the relationship between trafficking and women's rights, thus focussing in particular on trafficking of women.

It is essential to increase understanding of the gender aspect of the factors promoting vulnerability to trafficking as well as to raise awareness of the rights violations which are a consequence. By exposing this link and mapping out the corresponding women's rights violations, trafficking can be more effectively prevented and (potentially) trafficked persons can be more successfully supported and the risk of re-trafficking eliminated.

The crux of this report is the conviction that trafficking in human beings should always and only be addressed by adopting a human rights approach. This approach requires all measures should aim at the promotion and protection of human rights. According to the human rights approach, the standards and principles of the international human rights system are integrated into legislation, policies and programmes. As the former United Nations High Commissioner for Human Rights, Mary Robinson, stated, the human rights approach 'is the only way to retain focus on the

trafficked person: to ensure that trafficking is not simply reduced to a problem of migration, a problem of public order or a problem of organised crime. It is also the only way to ensure that well-intentioned anti-trafficking initiatives do not compound discrimination against female migrants or further endanger the precariously held rights of individuals working in prostitution'.¹⁰

The report is structured as follows. In the second chapter the concept of trafficking in human beings is defined and the scope of human trafficking is highlighted, followed by brief profiles of the La Strada countries. The third chapter analyses the link between trafficking and human rights violations, providing the conceptual framework for trafficking as a cause and a consequence of human rights violations. Chapter four takes a closer look at the situation of women's rights in the La Strada countries, focusing in particular on the legislative framework in place. The position of women in the social and economic sphere is highlighted in chapters five and six and women's position in the migration process is outlined in chapter seven. These are the three main areas where contributory factors are identified that increase vulnerability to trafficking. At the end of each section, practical recommendations are given that might help to improve the situation of women in general, and of risk groups and trafficked women in the La Strada countries in particular, with the aim of rendering them less prone to trafficking and other human rights violations.

This report is produced by La Strada International (LSI), which is a network of nine independent human rights NGOs (Non-Governmental Organisations) based in Belarus, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Macedonia¹¹, Moldova, the Netherlands, Poland and Ukraine (hereafter referred to as 'La Strada countries'). The key priority of La Strada is to focus on the importance of improving the economic and social situation in La Strada countries, in particular that of women, and to promote their universal rights, including the right to emigrate and work abroad with fair remuneration and under proper conditions, and to protect them from violence and abuse. La Strada encourages trafficked persons to work

¹⁰ Mary Robinson, *UN High Commissioner for Human Rights, Mary Robinson, Message to the Ad Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime, Fourth session, Vienna 28 June – 9 July 1999.*

¹¹ Without taking a political stance, the Former Yugoslav Republic of Macedonia is addressed in this report as Macedonia.

actively to change their own situation, rather than passively receive services as victims in need of rescue.

This report is the result of desk research on trafficking and violations of women's rights in the La Strada countries. Due to limitations of time and resources, this research consisted mainly of a literature review of documents available in the English language on the situation of trafficking in human beings and women's rights in these states. Most documents were available through the library of La Strada International (LSI), including the web-based Documentation Centre.¹² Other documents have been made available through the national La Strada offices. Additional reports and data have been accessed via the Internet. The research also included individual interviews with representatives of each La Strada office during the Assembly Meeting in Skopje in October 2007. Additional input and feedback were supplied by email and phone. In this way, each La Strada office provided valuable information for this report.

It should be noted that every trafficking situation is different. Every woman has her own biography. The La Strada countries are diverse and within them there are regions with specific characteristics. Consequently, not all issues described in this report apply to all trafficking cases or to all women in all La Strada countries. What this report has done is to focus on the common denominators, based on the experience of the La Strada offices, in order to create an overview of the situation of women's rights, which we believe are relevant to the complex phenomenon of trafficking in human beings.

¹² The Documentation Centre of LSI is accessible at www.lastradainternational.org/?main=documentation.

2 Human trafficking in the La Strada countries

2.1 What is trafficking in human beings?

The definition of trafficking in human beings

In its work, LSI uses the definition of trafficking in human beings of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which was signed in Palermo in 2000 and came into force in December 2003 (commonly known as the Palermo Protocol). Article 3a of the Palermo Protocol defines trafficking in human beings as:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The definition of trafficking in human beings contains three elements, namely:

- 1. The activity:** the recruitment, transport, transfer, harbouring or receipt of a person;
- 2. The means:** threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person;
- 3. The purpose:** the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The EU Expert Group on Trafficking in Human Beings contends that the third pillar, that is the purpose of exploitation of others, is the key element of trafficking, as it is the one element that distinguishes trafficking from other crimes.¹³ The core element of trafficking is thus the exploitative and abusive situation in which a person is forced rather than the movement of a person across borders.

Another important issue which should be emphasised is the fact that the consent of a person is irrelevant when the means as set forth in the second component are used.¹⁴ This means that it does not matter whether a person has, for example, initially agreed to migrate to another place and to work in domestic services or the sex industry being unaware of the exploitative circumstances. It is disturbing that there are reports of government agencies which still tend to adopt the incorrect position that women who have previously been working in the sex industry, or who are willing to do so, cannot become trafficked and should thus not be given the protection provided to potentially trafficked persons.

Trafficking vs. smuggling

The Palermo Protocol makes a clear distinction between trafficking and smuggling, which is addressed in another protocol.¹⁵ In short, smuggling is the facilitation of irregular border crossing or irregular stay, while the aim of trafficking, as stated above, is the exploitation of human beings. Another distinction is that smuggling always entails the crossing of a border, which is not necessarily the case in trafficking. Internal trafficking can also occur, i.e. without crossing any national borders, which is increasingly the case in the La Strada countries.

This is not to say that trafficking and smuggling do not overlap. The facilitation of illegal border crossing can indeed be part of the trafficking process and smuggling can thus lead to trafficking. The way trafficking is

¹³ European Commission, *Report of the Expert Group on Trafficking in Human Beings* (2004), 52.

¹⁴ When the trafficked person is a child, meaning below the age of 18, consent is deemed irrelevant when none of the coercive means of the second component are used (Article 3c Palermo Protocol).

¹⁵ The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the aforementioned Transnational Organised Crime Convention defines smuggling in Article 3a as 'the procurement, in order to obtain, directly or indirectly, a financial or other material benefit of the illegal entry of a person into a State of which the person is not a national or a permanent resident.' See also the 'Terminology' section.

often portrayed in the media is contradictory; kidnapping and subsequent enslavement are not the principal recruitment methods used by traffickers, even though there are cases in which this practice occurs. The vast majority of trafficked persons are in fact migrants who leave their country in search of a better life.¹⁶ Migrants who end up in a trafficking situation might have entered countries legally, for example as tourists, students, spouses or au pairs. Yet, as legal migration options are increasingly scarce due to restrictive and repressive immigration policies, persons use the facilities of smugglers and other intermediaries out of necessity, which in turn exposes them to deceit, violence, abuse and exploitation.

Trafficked persons are often made promising job offers in another country by their recruiter, who can be a boyfriend, a relative or an acquaintance. Other methods of recruitment are through job advertisements, employment or even marriage agencies. Some of the trafficked persons actually know what kind of work they will be doing, but are not informed about the circumstances and the fact that they often have to use up all their earnings repaying an acquired 'debt' to the traffickers (debt bondage). All stories are unique, but what they all have in common is the experience of deceit, violence, coercion and abuse and of being subjected to exploitation, with little or no personal freedom, and living in constant fear.

Broadening the definition of trafficking

When La Strada started up as a tri-national project in 1995¹⁷, the political and legal focus was still exclusively on the trafficking of women for exploitation in prostitution. With the adoption of the Palermo Protocol it was finally recognised by the international community that trafficking is not only limited to sexual exploitation. Exploitation can occur in many other

¹⁶ See Anti-Slavery International, *The Migration-Trafficking Nexus: Combating Trafficking through the Protection of Migrants' Human Rights* (2003).

¹⁷ La Strada started in 1995 as a trilateral anti-trafficking project run by the La Strada offices in the Netherlands, Poland and the Czech Republic. In 1997 and 1998 Ukraine and Bulgaria joined the network and in 2001 Belarus, Bosnia-Herzegovina and Macedonia followed. La Strada has thus grown into a network operating in nine countries. The La Strada members share the same objectives, the same philosophy on trafficking and work according to the same basic programme. The services offered, however, can vary widely, depending on the local situation. In the first 10 years of its existence, the La Strada project was coordinated by the Dutch Foundation against Trafficking in Women (Stichting tegen Vrouwenhandel, since 2007 La Strada Netherlands). In 2004, La Strada International was established as an association comprising nine independent members. See La Strada, *European Network against Trafficking in Women. Facts and Practices* (2005), 19-21 accessible at www.lastradainternational.org.

sectors outside the sex industry, such as in domestic services, the hotel and restaurant industries, construction work, horticulture, agriculture and forestry, the clothing industry and many other sectors. Trafficking also takes place for the purpose of begging or delinquency, as the case of Fatima (see box 1) highlights. Recently, the first case of trafficking in human beings for the purpose of organ removal was reported in the Netherlands, the only known case in the La Strada countries.

Box 1 Fatima – Macedonia

Fatima is 14 years old, and lived in a very poor village with her parents and three brothers. One day two men came to her house to speak with her father to arrange her marriage. She only saw a picture of her future husband, with whom she was supposed to move to Croatia. Fatima was happy to leave the situation of poverty, agreed with her parents to the marriage, and the preparations started. After two weeks the wedding was held but the bridegroom was absent, as he had gone on a business trip. Fatima was supposed to meet him in Croatia. After the wedding, Fatima and the man's parents immediately went to Croatia. After one week in Croatia, where she was prohibited to speak to the parents, she continued her journey on a boat with an unknown person. They crossed the Italian border illegally. On arrival in Italy, another person took her and forced her into a car trunk with her eyes and mouth covered and her legs tied. Fatima was taken to a house in Italy, and stayed with other 'brides' and a lot of small children. Every day she was forced to steal money and to beg in Florence, together with other young women who were recruited and deceived in the same way. She had to give all the money she collected to the 'bosses'.

Consequently, due to the adaptation of legal frameworks in line with the definition of the Palermo Protocol, trafficked persons who are exploited in sectors other than the sex industry have been identified in the last few years. La Strada Ukraine, for example, assisted a number of women trafficked for forced labour as seamstresses. La Strada Poland handled a number of cases of Moldovan women forced into begging in Poland. In the Netherlands, young women who have come to work as au pairs and experience Dutch culture are exploited for all kinds of domestic labour.

The definition of the Palermo Protocol not only multiplied the forms in which exploitation can occur, but recognised that men also can be trafficked. This has led to an increase in the number of male trafficked persons identified. In the Netherlands, for example, 30 men were identified in 2006 and 40 in 2007 as (possibly) trafficked persons, working in forced prostitution or in the hotel and restaurant industry. In Moldova, a number of cases of men trafficked for construction and agricultural work came to light, such as the case of Pavel (see box 2) who was trafficked to Ukraine. In other countries an increase in detected cases of male trafficked persons has also been discerned.

This development provides additional challenges to agencies which provide social services to trafficked persons. As the target group has changed to include men, assistance programmes need to be adjusted. At the moment, one significant problem is for example the lack of shelters for male trafficked persons.

Box 2 **Pavel – Moldova**

In 2006, Pavel, a 50-year-old man from Moldova, received an employment offer from a person from his village to go to Ukraine to work in construction for him for 300 grivnas (about € 50) per month. Having no other working opportunities in his village and having to support his sick wife, he agreed to go to Ukraine with the employer.

They crossed the border illegally because Pavel had no passport. In Ukraine he started to work in construction, and domestic and agricultural work for the employer, but received no money for his labour. He was denied free movement and beaten by the owner every time he wanted to eat, to call home or to leave. After one year, he managed to run away and returned to Moldova.

2.2 **The scope of trafficking in human beings**

It is impossible to provide accurate data on the scope of trafficking. Nobody knows exactly how many persons become victims. This is partly due to the fact that trafficking is an 'invisible' crime, where many cases are

unreported. As exploitation often takes place in 'underground' sectors, trafficking cases do not easily come to light, which may moreover be caused by weak identification mechanisms. What also plays a significant role is that for a variety of reasons, a trafficked person is often afraid to report to the authorities. A trafficked person might fear retaliation by the traffickers, as many are threatened that harm will be done to a child or another family member. He or she might be afraid of being arrested as an illegal immigrant and consequently deported. He or she might also experience a lack of trust in law enforcement bodies and assistance providers. It also occurs that trafficked persons do not see themselves as being a victim of a serious crime; even though they are clearly exploited, they perceive themselves as better off than in their home country, as the little money they earn is more than they would ever receive in their country of origin.

Another aspect of why no reliable data exist is the fact that there is a lack of systematic reporting of trafficking cases. In many countries there is no agency collecting all the data, nor can the data available be easily compared. Often, cases are reported twice with different agencies and there is a chance of double counting. Moreover, different definitions of trafficking in human beings are used and no common indicators to identify trafficked persons are in place, which again makes it practically impossible to compare data.

Despite this lack of reporting and consistency, various uncertain estimates can be found on trafficking, showing widely differing numbers. Estimates made to-date, however, can often not be verified, as it is not clear how these statistics came about. This is illustrated by a comparison of the available data on trafficking which the United Nations Educational, Scientific and Cultural Organisation (UNESCO) undertook in 2004, showing the numbers calculated by various organisations to range from 500,000 to 4 million.¹⁸ Most of these figures are simply repeated time and again and subsequently have become authoritative. Various initiatives have been set up recently to compile and collect data and it is expected that in the near future more accurate data on trafficking can be provided.¹⁹

¹⁸ UNESCO, *Data Comparison Sheet #1. Worldwide Trafficking Estimates by Organizations*, www.unescobkk.org/fileadmin/user_upload/culture/Trafficking/project/Graph_Worldwide_Sept_2004.pdf.

¹⁹ La Strada will for instance start a new registration system as of 1 January 2008, making the data collected by the La Strada offices comparable.

Due to the fact that the definition of trafficking has only recently been expanded to include men, as well as other forms of exploitation outside the sex-industry, the current available data show that mostly young women are being trafficked. According to a report of the United Nations Office on Drugs and Crime (UNODC), which bases its findings on compiling and comparing data from various sources in the period from 1996 to 2003, 87% of the cases reported globally were women and an equal 87% of the trafficking cases had been trafficked for the purpose of sexual exploitation.²⁰ According to a comprehensive report on trafficking in South-Eastern Europe, the majority of identified and assisted cases in 2003 to 2004 were also women, predominantly trafficked for the purpose of sexual exploitation.²¹ The experience of La Strada is indeed that the majority of persons whom La Strada has supported over the last ten years are young women between 18 and 30 years old who were trafficked into the sex industry, although an increase can be discerned for male cases, as well as those for purposes outside the sex-industry.

2.3 **Trafficking in human beings in the La Strada countries**

Trafficking in human beings is not a static phenomenon. Although the core of the problem (exploitation, violence and abuse) unfortunately remains the same, the methods, routes and purposes of trafficking are constantly changing. Over recent years, many of the La Strada countries have changed from being exclusively countries of origin to being countries of transit and destination, as well as origin:

Belarus

Belarus is considered to be a country of origin and in some cases, a country of transit for trafficked persons. Persons from the Republic of Belarus are trafficked to nearly 30 different countries. The most common destinations are Western Europe, the Middle East and the Russian Federation. Moreover, Belarus has recently become a country of destination, especially concerning exploitation in economic sectors outside the sex industry. Between 2004 and 2006, 18 persons were identified as trafficked for exploitation in

20 UNODC, *Trafficking in Persons. Global Patterns* (2006), 33, 77.

21 Rebecca Surtees, *Second Annual Report on Victims of Trafficking in South-Eastern Europe* (2005), 12-13.

other sectors than the sex industry, among them both foreign nationals and Belarusians, pointing to an increase in internal trafficking.²²

Bosnia and Herzegovina

With regard to the problem of trafficking, Bosnia and Herzegovina was initially assessed as a transit and destination country for women from Central and South-Eastern Europe. Recently, however, it has also become a country of origin due to the 'difficult economic situation, the lack of employment opportunities affecting women in particular, the large number of displaced persons, the pronounced level of domestic violence in the post-war environment, and the level of general discrimination facing women in all spheres of life.'²³ The latest data indicate that internal trafficking of Bosnian citizens is increasing. In 2006, for instance, 71 trafficked persons were identified; 31 from Bosnia and Herzegovina, 22 from Serbia and Montenegro, six from Moldova, four from Ukraine, three from Croatia, two from Bulgaria and one each from Switzerland, Russia and Romania. Also, one male, a minor, was identified as being from Serbia Montenegro.²⁴

Bulgaria

Bulgaria is primarily a country of origin for women and girls trafficked predominantly for the purpose of sexual exploitation. Due to its geographical location, Bulgaria is an important transit country and persons are primarily trafficked through Bulgaria from Ukraine, Romania, Moldova, Russia, and Central Asia. Bulgarians have been trafficked to Germany, France, Italy, the Netherlands, Belgium, the Czech Republic, Kosovo and Macedonia. Internal trafficking also occurs in Bulgaria.

Bulgaria has been a member of the European Union (EU) since January 2007. This raises the expectation that it will increasingly become a country

22 Based on information provided by La Strada Belarus derived from: Ministry of the Interior of the Republic of Belarus and IOM, *Review of the actions against trafficking in human beings in the Republic of Belarus* (2007).

23 Global Rights, Partners for Justice in cooperation with NGOs in Bosnia and Herzegovina, *Shadow Report On the Implementation of CEDAW and Women's Human Rights in Bosnia and Herzegovina* (2004), 38. (hereafter BiH shadow report).

24 State Coordinator for Combating Trafficking in Human Beings and Illegal Immigration in Bosnia and Herzegovina, *Report on the Situation of Trafficking in Human Beings and Illegal Migration in Bosnia and Herzegovina and Report on the Implementation of the Action Plan for Combating Trafficking in Human Beings and Illegal Immigration in Bosnia and Herzegovina in 2006* (2007), 21.

of transit and destination. However, since the standard of living has not yet changed significantly, this trend is expected to develop in the long term.

Czech Republic

The Czech Republic continues to be a source, transit and destination country with regard to human trafficking.²⁵ In the 1990s the Czech Republic was an important country of origin, along with other post-communist countries. Czech women were trafficked into the sex-industry, especially in Western Europe (Germany, the Netherlands, Italy, Spain, etc). After 2000, cases of Czech women trafficked outside of Europe were recorded, namely to Asia and North America. The information available suggests, however, that this trend is only of minor significance when compared with Europe. Since accession to the EU in 2004, several trafficked persons from the Czech Republic have been identified in the Netherlands, which shows that accession to the EU does not stop trafficking from occurring. There were more cases of Czech women trafficked to the UK, Italy and Denmark who were assisted by La Strada Czech Republic.

Due to its geographical location, the Czech Republic has also been a transit country as well as being a country of origin, and at the end of the 1990s it became apparent that the Czech Republic had also become a country of destination. During the end of the 1990s the range of countries of origin for persons trafficked to the Czech Republic gradually broadened. Cases of persons trafficked from Central Asia, East Asia, the former Soviet Union and South Eastern Europe have been documented since early 2000. It is generally believed that trafficking in human beings for forced prostitution is the most frequent form of trafficking in the Czech Republic. Yet a survey on trafficking into other industries in the Czech Republic has found that it is very likely trafficking also occurs for other purposes than sexual exploitation.²⁶

Macedonia

Until recently, Macedonia was regarded mainly as a transit and destination country for women trafficked from Eastern Europe to South Eastern and Western Europe. The majority of these victims were foreign women originating from Moldova, followed by Romania, Ukraine, Bulgaria, Russia

²⁵ See La Strada Czech Republic, *Trafficking in Human Beings in Central Europe* (2005), 27-33.

²⁶ Petra Burcikova, *Trafficking in human beings and forced labour or labour exploitation in the Czech Republic, La Strada Czech Republic* (2006).

and Belarus, while several individual cases of girls from Kosovo, Serbia and Albania were also revealed. However, Macedonia can increasingly be considered a country of origin and Macedonians are also trafficked internally within the country. These findings are supported by the statistics of La Strada Macedonia. During 2007, 26 Macedonian citizens were assisted who were identified as (potential) trafficked persons. Most of them were exploited in Macedonia, while two women were transferred and forced into prostitution in Kosovo. The pattern of recruitment and exploitation is quite similar in all cases, namely, by the boyfriend or potential partner who transfers and sells the women to the western part of the country. La Strada Macedonia has so far not assisted cases of forced labour in other industries. Moreover, trafficked persons who are not citizens of Macedonia are assisted and accommodated in the transit centre for illegal migrants run by the Ministry of the Interior.

Moldova

Moldova is recognised mainly as a country of origin, yet cases of trafficking have been registered where Moldova appeared as a country of transit. 'Poverty, inadequate public services, high levels of unemployment, discrimination against women and domestic violence are among the main factors making Moldova a major country of origin for trafficking in human beings.'²⁷ As with the other La Strada countries, internal trafficking is also reported in Moldova. Moldovans are trafficked for sexual exploitation, forced labour in other sectors, begging and delinquency. While the majority of assisted Moldovans were female, a number of male victims of trafficking were also identified and assisted. Minors were also represented among assisted persons and account for 10% to 15% of trafficked persons for sexual exploitation and forced labour in other sectors. Moldovan trafficked persons for sexual exploitation were generally between 18 and 25 years, a finding that has been relatively consistent since 2000. Single women accounted for the majority of assisted Moldovan trafficked persons.

The Netherlands

The Netherlands is also a country of origin, transit and destination for trafficked persons. In 2007, La Strada Netherlands registered 639 trafficked persons, compared to 579 in 2006. Most trafficked persons registered in the Netherlands are of Dutch nationality, thus pointing to a high preva-

27 ATNET: Moldova Anti-Trafficking and Gender Network, *Profiles & Trends of Human Trafficking in Moldova*, www.atnet.md/pageview.php?l=en&idc=6g.

lence of internal trafficking.²⁸ The predominance of internal trafficking can be explained by the fact that the majority of Dutch trafficked persons are recruited by 'loverboys'. The 'loverboy' phenomenon refers to men seducing young women with the aim of 'winning over vulnerable, usually underage girls to then have them work in prostitution [...]. The introduction into prostitution and subsequent exploitation are carried out by means of (gradual) emotional manipulation, possibly accompanied by physical threat or mistreatment.'²⁹

The Netherlands is also an important country of destination for trafficked persons from abroad. The second largest group of registered trafficked persons in 2006 came from Nigeria, followed by Bulgaria and Romania. In 2006 La Strada Netherlands also registered 30 male trafficked persons, of which 5 were exploited in the sex industry, 9 in the agricultural and horticultural sector and 4 in restaurant and bar services. In 2007, 40 male trafficked persons were identified.

Poland

Poland has developed from being mainly a country of origin to being a country of transit and destination. The current situation of human trafficking in Poland is strongly influenced by the political and socio-economic development in the country and the entire region of Central and Eastern Europe. Major changes in migration patterns have been observed during the last four years in Poland. The accession of Poland to the EU in May 2004, which opened the labour markets of many EU member states to Polish workers, has caused the biggest migration flow after the Second World War. It is estimated that during the last five years, about two million Poles migrated abroad for work. This huge migration flow also caused several negative side-effects, one of which is human trafficking.

Trafficking for labour exploitation and slavery-like practices outside the sex industry has become visible only in the last two to three years. Currently, there are various challenges to be addressed in Poland, namely, the problem of Polish migrant workers who are trafficked abroad (to Germany, Italy, the Netherlands, and Spain). Cases of forced labour camps in southern

²⁸ In 2007 220 (34,4%) of 639 trafficked persons were Dutch, while in 2006 157 (27,2%) of 579 were of Dutch nationality. Information provided by La Strada Netherlands.

²⁹ Bureau of the National Rapporteur, *Trafficking in Human Beings. First report of the Dutch National Rapporteur* (2002), 62.

Italy were reported in 2006, where more than a thousand victims, mainly Polish nationals, were identified. Other cases of Polish nationals in forced labour situations were reported in the Netherlands, Spain and the United Kingdom, including a case of trafficking for the purpose of pick-pocketing and stealing in supermarkets in Sweden. Parallel to the problem of Polish nationals being exploited, there is the problem of a growing flow of migrant workers into Poland, and trafficked persons among them. They originate from the former Soviet Union (Ukraine, Moldova, Belarus), other former communist countries (Bulgaria, Romania), but also from Vietnam, some African countries, and China.

Ukraine

Ukraine is primarily a source but also transit and destination country for men, women, and children who are trafficked internationally for the purposes of sexual exploitation and forced labour in other sectors. Important destination countries include Turkey, Russia, and Poland. Other major destinations include the Czech Republic, Italy, Israel, Greece, Serbia and Montenegro, the United Kingdom, Lithuania, and Portugal. Reports of internal trafficking also exist.

The problem of human trafficking manifests itself to varying degrees in different regions of Ukraine. The trafficking phenomenon tends to adapt to new conditions, changing its form and methods depending on the economic and social situation: criminal gangs modify their approach, their methods and the ways they recruit people, while vulnerable groups also vary. The following changes can be highlighted for Ukraine: men are increasingly trafficked, there are fewer women over 35, and more young women from 15 to 19 years of age are being recruited to work in the sex industry. Besides trafficked persons becoming younger, there is also a trend towards child slavery and information is emerging of cases of child human trafficking. Analysing the appeals that reached La Strada Ukraine in 2006, one can note an increase in cases linked to children's rights. This includes attempts by people from other countries to adopt Ukrainian children, or illegal attempts by one parent to take a child abroad. Another trend which can be observed is that the criminals are more demanding with regard to the 'qualities of the commodity'. Traffickers are finding new places for recruiting trafficked persons (increasingly in rural areas), and the recruitment is becoming more camouflaged and clandestine. The recruiters are taking on more work: they find the people; organise their documents; take them across borders and

pass them over to the buyer abroad, receiving their money immediately. Internal trafficking is also spreading, aimed at drawing children into the porn business or prostitution, sometimes commissioned by foreign nationals. La Strada Ukraine observes that the types of trafficking and ways of transporting people abroad are changing, and the scale of the problem is ever-increasing.

3 Trafficking as a cause and consequence of human rights violations

3.1 Women's Human Rights

Trafficking in human beings is without doubt one of the most serious human rights violations occurring in the world today. Trafficking is a cause of human rights violations because the act itself violates fundamental human rights. However, trafficking is not only in itself a human rights violation. It is also a consequence thereof and a lack of protection for trafficked persons can lead to even more violations.

Human rights are applicable to all and are based on fundamental principles of respect for human dignity, equality and non-discrimination. They are enshrined in the Universal Declaration on Human Rights (UDHR), the principles of which are included and elaborated upon in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).³⁰ By ratifying or acceding to these and other relevant human rights treaties (see annex 1 for a list of relevant treaties), states have obliged themselves to uphold, respect and promote human rights.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Convention)³¹ is a specific human rights treaty, which 'provides the basis for realising equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life [...] as well as education, health and employment. State parties agree to take all appropriate measures, including legislation and tempo-

³⁰ UDHR (1948) www.udhr.org/UDHR/default.htm, ICCPR, www.unhchr.ch/html/menu3/b/a_ccpr.htm; ICESCR www.unhchr.ch/html/menu3/b/a_icescr.htm.

³¹ CEDAW Convention (1979), www.un.org/womenwatch/daw/cedaw.

rary special measures, so that women can enjoy all their human rights and fundamental freedoms'.³²

Not only are women entitled to equal opportunities in education and employment according to international law, but violence against women is also recognised as a form of discrimination against women and thus a violation of women's rights. Trafficking in women is for instance recognised as a serious form of gender-based violence.³³ The General Recommendation No. 19 of the Monitoring Committee of the CEDAW Convention includes 'violence that is directed against a woman because she is a woman or that affects women disproportionately' in the definition of discrimination against women and as such, gender-based violence is prohibited.³⁴

The CEDAW Committee has furthermore stated that states may also be held responsible for violence perpetrated by any person or organisation if the authorities 'fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.'³⁵ According to international human rights law, states can thus be held accountable if they fail to protect women from violence committed in the private sphere and/or committed by non-state agents.

3.2 **Trafficking as a cause of human rights violations**

*'Anti-trafficking measures shall not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked, and of migrants, ...'*³⁶

32 Economic and Social Commission for Asia and the Pacific, *Violence against, and Trafficking in Women as Symptoms of Discrimination: The Potential of CEDAW as an Antidote. Gender and Development. Discussion Paper Series, no. 17* (2005), 18.

33 See article 2 (b) of the United Nations Declaration on the Elimination of Violence Against Women (DEVAW) which reads: Violence against women shall be understood to encompass, but not be limited to, the following: (?) trafficking in women. Violence against women is in Article 1 of DEVAW defined as 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.' DEVAW www1.umn.edu/humanrts/instreet/e4devw.htm.

34 CEDAW Committee, *General Recommendation No. 19. Violence against Women* (1992). www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19.

35 *Ibid.*, art. 9.

36 UNOHCHR, *Recommended Principles & Guidelines*, 3.

As the case of Aksana (see box 3) illustrates, trafficking is a cause of human rights violations, because the act of trafficking violates human rights. In the case of Aksana, she was deprived of her freedom of movement and forced to do work under terrible conditions. She experienced inhuman and degrading treatment, being psychologically and physically abused.

Box 3 **Aksana – Belarus**

Aksana grew up in a situation of violence in a small village in Belarus. Her mother, an alcoholic, pushed her out of the window from the second floor when she was 10. Assaults and physical battering were the rule rather than the exception. The family was poor, as the only steady income was the pension of the grandmother.

Aksana got acquainted with a female friend of her mother's. This woman lent Aksana some money and invited her to live in her flat for a while. She later forced Aksana into prostitution at the age of 15. Aksana was afraid to refuse, as she was told everyone in her hometown would know that she had been a prostitute. Moreover, Aksana was threatened that her little brother would be killed. Aksana had to work to pay off a 'debt' she had allegedly acquired. Once Aksana was even locked in a basement in wintertime, wearing only her underwear. Although her mother knew of the situation her daughter was in, she did nothing to help her.

In 2006, after one and a half years, Aksana escaped and was subsequently accommodated in the La Strada shelter.

The following human rights can be violated in a trafficking situation: the right to liberty and security³⁷, the right to equality before the law³⁸, the right to freedom of movement³⁹, the right to do work one freely chooses⁴⁰, the right to just and favourable conditions of work⁴¹, and the right to access to health care.⁴²

37 Article 9 ICCPR.

38 Article 26 ICCPR, article 15 CEDAW.

39 Article 12 ICCPR.

40 Article 6 ICESCR, article 11 CEDAW.

41 Article 7 ICESCR.

42 Article 12 ICESCR article 12 CEDAW.

In the case of forced marriage, the right of both parties to consent to a marriage and freely choose a spouse is breached.⁴³

In addition, trafficked persons are often subjected to cruel, inhuman and degrading treatment such as rape or other severe physical or psychological violence.⁴⁴ In extreme cases, when committed as part of a widespread or systematic attack against a civilian population, sexual slavery and enforced prostitution may constitute a crime against humanity or a war crime, falling under the jurisdiction of the International Criminal Court.⁴⁵

From the above it can be clearly seen that trafficking in human beings is a serious human rights breach. This has been recognised in various international documents such as the OSCE Declaration on Trafficking in Human Beings, which states that 'trafficking in human beings and other modern forms of slavery constitute an abhorrent violation of the dignity and rights of human beings'.⁴⁶

The fact that trafficking is a serious breach of human rights shows the need that trafficking should be tackled by taking a human rights approach, which integrates the standards and principles of the international human rights system into legislation, policies and programmes. According to the former United Nations High Commissioner for Human Rights, Mary Robinson, the human rights approach 'is the only way to retain focus on the trafficked person: to ensure that trafficking is not simply reduced to a problem of migration, a problem of public order or a problem of organised crime. It is also the only way to ensure that well-intentioned anti-trafficking initiatives do not compound discrimination against female migrants or further endanger the precariously held rights of individuals working in prostitution.'⁴⁷

In line with this approach, trafficked persons should be treated as persons whose rights have been infringed upon and should, in accordance with international standards, be provided with access to adequate remedies, such as assistance and support, protection, legal aid and compensation. It

43 Article 10 ICESCR, article 16 CEDAW.

44 Article 7 ICCPR.

45 Article 7 (1) (c) (g) and 2 (c) and Article 8 (2) (b) (xxii) and (c) (vi) of the Rome Statute of the International Criminal Court. www.un.org/law/icc/statute/romefta.htm.

46 OSCE, *Declaration on Trafficking in Human Beings* (2002), www.osce.org/documents/odihr/2002/12/2107_en.pdf.

47 Mary Robinson, *op.cit.*

is thus even more deplorable that the rights of trafficked persons frequently continue to be breached after they have freed themselves or have been freed from exploitation. For example, in all La Strada countries, protection for trafficked persons is granted only on the condition that trafficked persons cooperate with the authorities. Conditional protection, however, stands in contradiction to a human rights approach, whereby victims of exploitation are provided with unconditional support and respect for their rights.

This approach addresses the consequences of trafficking by ensuring the maintenance of the rights of trafficked persons and by opposing the use of trafficked persons solely as instruments in the prosecution process. Assistance and support for trafficked persons based on these rights should allow them to regain control over their lives and reduce the risk of re-trafficking. It also contributes to an effective prosecution of traffickers. Finally, a human rights approach opposes anti-trafficking measures which adversely affect or infringe upon the human rights of trafficked persons or other affected groups. As argued in chapter 7 of this report, there is a need for stricter adherence to the human rights aspect in anti-trafficking measures, because a lack of protection for trafficked persons currently often leads to further violations. In addition, well-intended anti-trafficking measures unfortunately backfire and adversely affect the rights of others.

3.3 **Trafficking as a consequence of human rights violations**

*'[T]he lack of rights afforded to women serves as the primary causative factor at the root of both women's migrations and trafficking in women [...]. By failing to protect and promote women's civil, political, economic and social rights, Governments create situations in which trafficking flourishes.'*⁴⁸

Trafficking in human beings is not only a cause but also a consequence of human rights violations and particularly women's rights violations. Many trafficked persons experience human rights violations prior to being trafficked, which indicate an existing link between human rights violations and the root causes of trafficking.

48 Human Rights Commission, *Report of the Special Rapporteur on violence against women*, 54.

It has widely been acknowledged that, amongst other things, poverty, unemployment and a cultural context in which violence against women is tolerated, as well as the demand for cheap labour and services in female-designated sectors of work are the most important causes of trafficking.⁴⁹ Some of these factors are clearly related to the violation of women's rights, as Radhika Coomaraswamy, the former UN Rapporteur on Violence Against Women stated (see quotation above). She asserted, '[i]n the absence of equal opportunities for education, shelter, food, employment, relief from unpaid domestic and reproductive labour, access to structures of formal state power, and freedom from violence, women will continue to be trafficked.'⁵⁰ Furthermore, '[t]he failure of existing economic, political and social structures to provide equal and just opportunities for women to work has contributed to the feminisation of poverty, which in turn has led to the feminisation of migration, as women leave their homes in search of viable economic options.'⁵¹ The lack of legal options for labour migration, as well as the absence of legal protection for undocumented migrants, consequently renders female migrants especially vulnerable to trafficking.

It has been outlined above that, according to international human rights standards, women are equal to men and entitled to the same opportunities, for instance, in employment, education and political life. Women are entitled to a life free from violence and discrimination. However, in practice, and as is shown in subsequent chapters of this report, women continue to be disproportionately affected by unemployment and poverty, discrimination and violence, which renders them more vulnerable to fall into the hands of traffickers.

This observation is confirmed in reports on women's rights and trafficking in several La Strada countries. **Bosnia and Herzegovina**, for instance, has become an important country of origin due to the 'difficult economic situation, the lack of employment opportunities affecting women in particular, the large number of displaced persons, the pronounced level of domestic

49. See for instance: Commission on the Status of Women, *Review of the implementation of the Beijing Platform for Action and the outcome documents of the special session of the General Assembly entitled 'Women 2000: gender equality, development and peace for the twenty-first century' report*, E/CN.6/2005/2 (2005), 97; European Commission, *Report of the Expert Group on Trafficking in Human Beings* (2004), 84; ILO, *Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers. An Information Guide. Booklet 6 Trafficking of Women and Girls* (2003), 30.

50. Human Rights Commission, *Report of the Special Rapporteur on violence against women*, 60.

51. *Ibid.*, 58.

violence in the post-war environment, and the level of general discrimination facing women in all spheres of life'.⁵² In **Poland**, the inferior economic position of women has been stipulated as a factor conducive to trafficking.⁵³ In **Moldova**, 'poverty, inadequate public services, high levels of unemployment, discrimination against women, and domestic violence are among the main factors making Moldova a major country of origin for trafficking in human beings.'⁵⁴ However, it is not only violence or lack of employment opportunities that contribute to trafficking. According to **La Strada Ukraine**, lack of legal awareness among the public, an unrealistic notion of life in destination countries, the lack of real information on trafficking, as well as the increased possibility for Ukrainian nationals to travel, are all factors that can contribute to trafficking.⁵⁵

It is important to bear in mind that the above factors do not provide explanations in themselves of why trafficking takes place. Trafficking occurs due to 'a multiplicity of factors'.⁵⁶ Whether a person is trafficked depends on various factors on different levels, such as personal, interpersonal and general levels. Trafficking only occurs when someone deliberately takes advantage of the situation. A causal link between a contributing factor and trafficking cannot therefore be uniformly established. Unemployment and poverty do not lead to trafficking per se, nor does the occurrence of domestic violence mean that trafficking will take place, as not all trafficked persons have a violent background. When analysing root causes of trafficking, it should therefore be taken into account that the factors mentioned above do not necessarily show a causal link in themselves, but that they 'merely exacerbate the vulnerability' to trafficking.⁵⁷

In conclusion, it can be said women's rights violations are conducive to the risk of trafficking. These violations are linked in particular to three specific

52 BiH shadow report, 38.

53 Federation for Women and Family Planning, *Shadow Report on the Implementation of the of the Convention on the Elimination of all Forms of Discrimination against Women* (2006), 10 (henceforth Poland shadow report).

54 ATNET: Moldova Anti-trafficking and Gender Network, *Profiles & Trends of Human Trafficking in Moldova*, www.atnet.md/pageview.php?l=en&idc=69.

55 Correspondence with La Strada Ukraine.

56 Surtees, *The Second Annual Report*, 13.

57 Joyti Sanghera, 'Unpacking the trafficking discourse', in: K. Kempadoo et al. (ed.), *Trafficking and Prostitution Reconsidered. New Perspectives on Migration, Sex Work and Human Rights* (2005) 3-24, 7.

but interrelated aspects of women's lives, which are all part of the root causes mentioned above, namely:

1. *The social position of women: patriarchal stereotypes and domestic violence*

The position of women in the family and society as a whole influences the risk of being trafficked. Cultural contexts in which violence against women is tolerated, for example, have an effect on the risk of trafficking. The position of women is also influenced by paternalistic values and norms that portray women as being inferior to men. Further, 'dysfunctional family situations – including domestic violence [...] may also push women and girls to leave home and make them more vulnerable to traffickers'.⁵⁸ This view is shared by several La Strada offices and will be elaborated upon in chapter 5.

2. *The position of women in the labour market*

It has been widely acknowledged that unemployment and poverty are among the risk factors contributing to trafficking. According to a comprehensive report on trafficking in South-Eastern Europe, for instance, the main reason for persons to leave home was to work abroad.⁵⁹ Therefore, the position in the labour market and the availability of equal opportunities in the labour market can be linked to the risk of trafficking. This will be further analysed in chapter 6.

3. *The position of women in the migration process*

A third factor which increases the risk of trafficking is the position of women in the migratory process. As there is a lack of legal migration options, especially for female-designated sectors of work in which there often is an absence of legal protection, women are increasingly exposed to a considerable risk of abuse and violence. This will be explained in more detail in chapter 7.

Conclusion

Trafficking in human beings is a serious breach of human rights which is prevalent in all La Strada countries. It is in fact a cause of this violation of

⁵⁸ ILO, *Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers*, 32.

⁵⁹ Surtees, 14.

rights, as trafficking is itself a grave human rights violation. It is also an infringement of other rights and the lack of protection offered to trafficked persons can even lead to further breaches. Moreover, when anti-trafficking measures are not based on a human rights approach integrating human rights principles, these measures can have a negative impact on other groups besides trafficked persons.

Trafficking can also be the result of human rights violations, as many trafficked persons have experienced such abuses prior to being trafficked. The widely recognised root causes of trafficking are interlinked with aspects of gender inequality, which is in turn an infringement of women's rights.

4 Women's rights in the legislative framework of the La Strada countries

When examining the situation of women's rights in a given country, it is important to outline the obligations states have agreed to within the international and regional human rights framework. As stated in chapter 3, by ratifying human rights treaties, states oblige themselves to respect, protect and promote human rights.

Almost all human rights instruments relevant to trafficking which are legally binding have been ratified by the La Strada countries (see annex 2 for an overview of ratifications). All states but one, that is the Czech Republic, have ratified the Palermo Protocol. All states have ratified or acceded to the CEDAW Convention, including the Optional Protocol, and they are all parties to the ICCPR and the ICESCR.

In accordance with the obligations derived from important human rights treaties, most La Strada countries have in the last few years initiated legislative reforms with regard to achieving gender equality and ending violence against women. However, there are still several obstacles concerning the legal safeguarding of women's rights in the various La Strada countries, the most pressing being the following:

In **Belarus**, a general provision regarding equality between men and women is ensured by the Constitution. However, there is no specific legislation on this issue. A law on gender equality, for instance, has not been adopted. The work of the National Gender Policy group, set up in 2000 within the framework of the Council of Ministers, had to suspend its work in 2002. This was an important setback in the achievement of gender inequality.⁶⁰ Furthermore, a draft law on domestic violence, already drawn

60 Lyudmila Petina & Svetlana Burova, *Shadow Report on the Implementation of the CEDAW in the Republic of Belarus* (2003) 10 (henceforth Belarus shadow report).

up in 2002 and still containing serious flaws with regard to the law's effectiveness, has so far still not been adopted. It is essential that a new draft law be written and adopted.

In **Bosnia and Herzegovina**, according to the CEDAW shadow report, women 'face a state of perpetual inequality', which is 'reflected in the circumstances and consequences of the human rights violations directed against them, and in the availability and accessibility of legal remedies to address those violations'.⁶¹ A Law on Gender Equality was adopted in 2003, providing for the promotion and protection of gender equality, the prohibition of sex-based discrimination and the guarantee of equal opportunities. An Agency on Gender Equality was also established to monitor compliance with this act. This Agency is, however, understaffed and underresourced.⁶² Although an adequate legal framework for gender equality is now provided on paper, further efforts should be made to implement the legal framework and to achieve equality in practice. As the Helsinki Committee reported, 'notwithstanding signed documents and passed laws, the human rights of women are insufficiently respected'.⁶³

In **Bulgaria**, several legal mechanisms have been put in place to achieve gender equality and to combat violence against women. A National Council on Equality between Women and Men has been created and the Act on Protection against Domestic Violence was adopted in 2005, together with National Action Plans targeted towards the advancement of women. However, implementation of all these acts and measures is inadequate and gender discrimination continues.⁶⁴

The **Czech Republic** is currently in the process of implementing necessary measures to combat gender inequality. The general provision regarding equality between men and women and prohibiting discrimination on various grounds is included in the Charter of Fundamental Rights

61 BiH shadow report, 5.

62 CEDAW Committee, *Report of the Committee on the Elimination of Discrimination against Women, thirtyfourth session (16 January-3 February 2006) thirtyfifth session (15 May-2 June 2006) thirtysixth session (7-25 August 2006) A/61/38* (2006), 109.

63 Helsinki Committee for Human Rights in Bosnia and Herzegovina, *Report on the Status of Human Rights in Bosnia and Herzegovina* (January-December (2005) www.bh-hchr.org/Reports/reportHR2005.htm).

64 Open Society Institute, *On the Road to the EU: Monitoring Equal Opportunities for Women and Men in Bulgaria* (2005), 33-39.

and Freedoms, which forms part of the Czech Constitution. However, the comprehensive anti-discrimination legislation which is imperative to eliminate discrimination on the basis of sex has to date still not been passed by the Parliament. There is to date no general anti-discrimination law that contains a definition of discrimination against women in line with the CEDAW Convention. On the other hand, legislation on protection against domestic violence has been passed, and structures addressing human trafficking, such as a government-funded protection programme for trafficked persons and an inter-ministerial working group on human trafficking, are now in place. A national action plan for gender equality has been passed and is regularly updated. Also, a Council for Equal Opportunities between Men and Women and a Council for Human Rights have been established as advisory bodies to the Government in the area of gender issues and human rights in general.

In **Macedonia** there has been progress on the incorporation of women's rights in national legislation. In 2006, the Equal Opportunities for Men and Women Act was adopted, as well as the National Action Plan for gender equality. A Unit for the Promotion of Gender Equality has also been created. Despite these measures, implementation also falls short in Macedonia; as in other La Strada countries, there exists a wide gap between the legal framework and the situation in practice.

In **Moldova**, a Law on Ensuring Equal Opportunities for Women and Men was adopted, but not enough resources are allocated for its implementation. There are also some substantive short-comings, such as non-acceptance of the quota (in the draft law a quota had been proposed of at least 30% of the gender representation), the non-acceptance of an ombudsman on gender equality (the reason being the lack of resources); the failure to introduce a procedure to systematically file and examine complaints regarding gender-based discrimination and the failure to determine a procedure of sanctioning gender discrimination.⁶⁵ This failure to lay down specific guidelines for implementation renders the law declaratory in nature. In March 2007, a Law on Prevention and Combating Domestic Violence, which includes special measures to protect women and children and also contains a chapter on perpetrators, was passed by Parliament but has not yet been

⁶⁵ Elena Burca, *The Alternative Report of Evaluation regarding the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women* (2006), 8. (henceforth Moldova shadow report).

signed, and thereby enforced, by the President. The reason given was that in Moldova there are no services available for perpetrators and the law does not specify an institution responsible for dealing with perpetrators. The law was returned to Parliament for revision and it is expected to be adopted in 2008. On its coming into force, the most important issue will be the allocation of funds for its effective implementation.

Regarding **the Netherlands**, the CEDAW shadow report notes that the government of the Netherlands fails to take the CEDAW Convention seriously and to effectively implement its provisions to eliminate inequality between men and women. Although the NGOs fully endorse the two-track policy adopted by the government, which includes specific emancipation measures as well as a range of other measures to integrate a gender perspective into all areas of regular policies (gender mainstreaming), this policy appears to be mere rhetoric. 'The role of co-ordination and initiation assumed by the state regarding emancipation has been almost abandoned, instruments are hardly used, NGOs have disappeared due to state funding cuts, gender mainstreaming is failing, and government emancipation policies have shrunk to the integration of migrant, refugee and minority women.'⁶⁶ Although the main responsibility for implementing and monitoring the CEDAW Convention lies with the state, the Dutch government fails to assess its (existing and proposed) policies and legislation for gender impacts.

In **Poland**, equality between men and women is guaranteed in the Polish Constitution, but specific legislation to uphold these provisions is lacking. The Gender Equality Act has still not been adopted. Most importantly, the institution to monitor gender equality, the Plenipotentiary for Equal Status of Women and Men, was abolished in 2005, making it now the only EU country without a statutory equality watchdog.

In **Ukraine** equality of men and women is guaranteed in law by the Constitution and a Decree of the President of Ukraine on improvement in the work of central and local executive bodies on the provision of equal rights for men and women. The Decree foresees that in every Ministry, in

66 Margreet de Boer en Marjan Wijers, *Taking Women's Rights Seriously? An Examination of The Fourth Report by the Government of The Netherlands On Implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 2000-2004 (2006)*, 11 (henceforth NL shadow report).

central and local administration work, equal rights for men and women are provided for.⁶⁷ Moreover, a Law regarding the assurance of Equal Opportunities for Women and Men was adopted on September 2005, after 6 years of deliberation. Apart from clarifying constitutional provisions, this law defines gender discrimination, positive discrimination and gender equality. Furthermore, the Decree of the Cabinet of the Ministries of Ukraine has approved a state programme on providing gender equality in Ukrainian society until 2010 and contains a number of provisions containing positive discrimination toward women. Despite the existence of these legal improvements, however, there is no de facto equality between men and women in Ukraine. One of the pressing issues in national legislation is that the new draft law on domestic violence, which passed its first reading in 2007, is adopted as soon as possible, as the existing law on the prevention of violence contains serious flaws.⁶⁸

Conclusion

All governments of the La Strada countries have committed themselves to respecting, protecting and promoting women's human rights, as they all have ratified the CEDAW Convention as well as other relevant human rights treaties on gender equality. Belarus is the only country where few measures have been adopted for the advancement of women. In all other countries, legislation has long been in place or has recently been initiated. However, implementation still falls short in all La Strada countries. The following chapters therefore examine whether rights that exist on paper are in fact upheld in practice.

67 Correspondence with La Strada Ukraine: information based on Ukrainian Decree 11135/2005 from 26.07.2005.

68 Amnesty International, *Ukraine. Domestic Violence – Blaming the victim* (2006), 6.

5 The social position of women in the La Strada countries

Although all countries have ratified or acceded to the CEDAW Convention and almost all have initiated legislative reforms, the next chapters of the report will show there is a wide discrepancy between the position of women in the legislation (*de jure*) and the position of women in practice (*de facto*). In this section of the report, the social position of women in the La Strada countries is analysed, focusing firstly in particular on the persistence of patriarchal stereotypes in the La Strada countries, as this influences the position of women in the labour market and migration process. Secondly, the focus will be specifically on domestic violence, as this has been recognised by several La Strada offices as being an important contributory factor to trafficking in human beings.

5.1 Patriarchal stereotypes in the La Strada countries

When examining the social position of women in the La Strada countries, the most persistent aspect that comes to light is the strong influence of patriarchal culture. Deep-rooted stereotypes of women and their roles and responsibilities persist in all La Strada countries. According to this traditional, patriarchal stereotype, women are believed to be subordinate to men, who dominate the public spectrum of society. Women are expected to take on the role of mothers, faithful wives and housekeepers, whereas men are seen principally as breadwinners.

Article 5 of the CEDAW Convention calls on governments to ‘modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotype roles for men and women,’ and ‘to ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of

men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.’

However, none of the governments of the La Strada countries make sufficient efforts to eliminate the existence of stereotype beliefs and patterns. The CEDAW Committee has pinpointed these attitudes as being a problem in all La Strada countries and has urged their governments to intensify the efforts to eliminate such attitudes and perceptions.⁶⁹ The Committee inter alia has urged the authorities of the La Strada countries to encourage men and women to share responsibility for the family and to target awareness-raising campaigns towards both men and women. Another recommendation is for the media to portray the equal status and responsibilities of men and women in the proper manner.

La Strada believes it is indeed important that governments take action against gender-role stereotyping, since it negatively influences the position of women in all spheres of life. As the Committee has noted, these roles and responsibilities are reflected in women’s educational choices, their situation in the labour market and their low level of participation in political and public life. Altering stereotype attitudes is therefore one of the most important measures to be taken if the position of women in society as a whole, be it at home or at the work place, is to improve.

A trend that can be observed in most of the La Strada countries is that patriarchal patterns, including the norms and beliefs concerning gender stereotyping, have increased rather than decreased over the last two decades. With the exception of the Netherlands, all La Strada countries have experienced a transition from centrally planned to market economies, and

69 For Belarus see CEDAW Committee, *Report of the Committee on the Elimination of Discrimination against Women, Thirtieth session (12-30 January 2004), Thirty-first session (6-23 July 2004), A/59/38 (UN 2004)*, 58. For Bosnia-Herzegovina, Czech Republic, Macedonia and Moldova see for instance: CEDAW Committee, *Report of the Committee on the Elimination of Discrimination against Women, Thirty-fourth session (16 January-3 February 2006), Thirty-fifth session (15 May-2 June 2006), Thirty-sixth session (7-25 August 2006) A/61/38 (2006)*, 23, 109-110, 185, 198. For Netherlands see; CEDAW, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Netherlands CEDAW/C/NLD/CO/4 (2007)* 3. For Poland see; CEDAW, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Poland C/POL/CO/6 (2007)*, 4. For Ukraine see: CEDAW Committee, *Report of the Committee on the Elimination of Discrimination against Women, Thirty-fourth session, A/57/38 (2002)*, 48.

this process has been accompanied by a so-called 're-patriarchalisation' of society, that is a revival of patriarchal values and stereotypes.⁷⁰ This expresses itself as a reinforcement of the patriarchal stereotype, pushing women from the public into the private sphere. This re-patriarchalisation has in fact contributed to an 'ideological backlash' against gender equality. Gender equality is furthermore perceived as 'part of the ideology imposed by the Communist parties'.⁷¹ Gender equality, being linked to the Communist past, has been given a negative connotation, a perception that now severely impedes the advancement of women.

Additionally, patriarchal norms and beliefs are often not questioned by women. They perceive the situation as normal and accept it. This is again reinforced by the media, which portray women in a manner conducive to the patriarchal norms and values, broadcasting images of women as housekeepers and care-takers who are inferior to men. Ultimately, this gender-role stereotyping reflects the unequal power relationship between men and women and at the same time contributes to the treatment of women as commodities, rather than human beings.

5.2 **Domestic violence**

The perception of women as being inferior to men is also reflected in the fact that women are disproportionately affected by violence. Violence against women is the result of unequal power relationships, but also a means to maintain this inequality. According to the UN Declaration on the Elimination of Violence Against Women, 'violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.'

⁷⁰ See for instance the WIDE Information sheets, *The enlarged EU and its agenda for a wider Europe: what considerations for gender equality? EU Central and Eastern European new member states, EU neighbouring countries: the Western Balkans and EU neighbouring countries in Eastern Europe/Formal Soviet Union* (2004).

⁷¹ UNIFEM, *The story behind the numbers: Women and Employment in Central and Eastern Europe and the Western Commonwealth of Independent States* (2006), 18.

Violence against women takes many forms, such as trafficking, sexual violence and harassment, traditional practices such as dowry-related violence, violence committed in the name of 'honour' ('honour'-related violence), female genital mutilation and forced marriages.

According to a United Nations in-depth study on violence against women, the most prevalent form of violence against women worldwide is domestic violence.⁷² Domestic violence has been defined as a 'pattern of abusive and threatening behaviour that may include physical, emotional, economic and sexual violence, as well as intimidation, isolation and coercion'.⁷³ Domestic violence not only constitutes violence between partners, but also violence carried out by parents against children. This can embody negligence, which is a form of violence which manifests itself not by action, but inaction. Some of the La Strada offices, such as La Strada Bulgaria have found that negligence of children creates an environment in which trafficking flourishes. An example is also the case of Natasha from Ukraine (see box 4), who was abandoned in Russia by her mother.

Domestic violence can have a very negative effect and serious consequences for children for the rest of their lives, not only on those who are themselves abused but also those who witness it. Research suggests that violence in the family affects children in at least three ways: it influences their health, their educational performance, and their use of violence in their own lives.⁷⁴ Research findings also suggest that 'many abused children never manage to acquire the sense of self-sufficiency and always strive after someone to depend on'.⁷⁵

Although men can also be the object of domestic violence, it is mostly women and children who experience it. Similar to trafficking in human beings, domestic violence is an underreported but widespread phenomenon worldwide. According to a Council of Europe study, between 12% and 15% of women in numerous countries have been in violent relationships from

72 General Assembly, *In-depth study on all forms of violence against women. Report of the Secretary-General A/61/122* (2006), 37.

73 Stopvaw, www.stopvaw.org/What_Is_Domestic_Violence2.html.

74 General Assembly, *In-depth study on all forms of violence against women*, 50.

75 Save the Children, *Children speak out: Trafficking risk and resilience in South-East Europe. Bulgaria report* (2007), 32.

the age of 16.⁷⁶ However, in some La Strada countries, the numbers are said to be much higher.

Box 4 **Natasha – Ukraine**

Natasha is 16 years old and was born in the Lugansk region of Ukraine. Her father left the family when Natasha was 7. Her mother was under severe stress, started to drink and often beat the girl. When her mother entered into a new relationship, Natasha became a hindrance for her mother, who often locked her out to make her private life more comfortable, leaving the girl to sleep in front of closed doors. One day, Natasha came home and saw her mother packing their belongings. She said she had met a nice man who asked her to come to Moscow. The mother said he had money and they would be able to go to cinemas and museums. Natasha was looking forward to leading a normal life with her mother, and the next day they went to Russia.

In Moscow they were met by a friend of her mother's boyfriend. Natasha took an instant dislike to him, but they went with him to his house. The man explained that the mother and the daughter would live there. The next day the mother said she had to buy tickets to go back home and that Natasha had to wait for her. But her mother did not come back and until this day, Natasha does not know where she is. The man raped her and said she had to work for him. He said she would live in his flat, receive food and clothes and that she had to provide sexual services to men. Natasha agreed, as she did not see any other options. This situation lasted for 10 months.

One evening, the man came home very drunk and Natasha found the door key and ran away. Late at night she was walking through the streets and did not know what to do. When she saw a police car she alerted the police and was brought to the police department in Moscow. Later, officers from the Kiev transit center for minors took her back to Ukraine. Natasha is now in the La Strada center in Kiev and is still unsure about her future.

According to the government of **Belarus**, some 30% of Belarusian women experience domestic violence.⁷⁷ A recent study of Amnesty International

⁷⁶ Council of Europe, *Combating violence against women. Stocktaking study on the measures and actions taken in Council of Europe member states* (2006), 8.

⁷⁷ CEDAW Committee (2004), 55.

could not assess whether this figure is accurate, but it did find that domestic violence is very widespread in the country.⁷⁸ In **Bulgaria**, a minister recently reported that one in four Bulgarian women is a victim of domestic violence.⁷⁹ Although no concrete numbers can be given, a ‘disturbing increase’ in domestic violence has been reported in **Bosnia and Herzegovina**.⁸⁰ Research has shown that this form of violence is also of an ‘alarming nature’ in the **Czech Republic**.⁸¹ In **Macedonia**, Amnesty International has found that over 70% of Romani women are affected by domestic violence.⁸² In **Moldova**, in every fourth family a mother or daughter can be found between 16 and 35 years old who have suffered some form of domestic violence.⁸³ In **the Netherlands** it is also estimated to be the most prevalent form of violence against women and it is assumed to affect in particular women with a foreign background.⁸⁴ Domestic violence is ‘among the most frequently committed crimes’ in **Poland** where it is, as in almost all La Strada countries, treated as a family matter, thus not receiving the government attention that it deserves.⁸⁵ In **Ukraine** it has been estimated by NGOs and police officers that between 50% and 70% of Ukrainian women have been subjugated to domestic violence.⁸⁶ La Strada Ukraine carried out a nationwide survey on public opinion about violence in the family. Most of the respondents saw violence in the family as a pressing problem in Ukraine (81%) and the world as a whole (84%).⁸⁷

As stated in a report on the situation concerning domestic violence in **Ukraine**, ‘the main culprit is society itself, or more specifically, conserva-

78 Amnesty International, *Belarus: Domestic Violence – More than a private scandal* (2006).

79 Kristalina Ilieva, *Every 4th Bulgarian Woman a Victim of Domestic Violence* (12 December 2007), http://international.ibox.bg/news/id_2072730000.

80 BiH shadow report, 31.

81 European Roma Rights Centre et al., *Shadow Report to The Committee on the Elimination of All Forms of Discrimination against Women Czech Republic* (2006), 20-24 (henceforth Czech shadow report).

82 Amnesty International, *Macedonia: Government’s failure to address double discrimination against Romani women and girls* (6 December 2006) www.amnesty.org/en/for-media/press-releases/macedonia-government-failure-address-double-discrimination-20071206.

83 From correspondence with La Strada Moldova.

84 Human Rights Council, *Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk. Mission to The Netherlands*, A/HRC/4/34/Add.4 (2007), 10,13.

85 Poland shadow report, 25.

86 Amnesty International, *Ukraine*, 2.

87 Kharkiv Human Rights Protection Group, *Human rights in Ukraine – 2006. Human Rights Organizations’ Report, Chapter XX. Key human rights issues in cases involving domestic violence*. www.khpg.org.ua/en/index.php?id=1189436694#_ftn6.

tive morality, which virtually legalises the right of a man to dominate over a woman.⁸⁸ As stated before it is thus imperative that the gender-role stereotyping of women, which portrays them as being subordinate to men and is therefore a cause of violence against women, should be eliminated from the public mind in order to change the position of women in society.

According to international human rights law, states have to ensure that violence is prevented, prohibited and punished, regardless of whether the violence has been committed by a private individual, an organisation or a state agent. As domestic violence is the most prevalent form of violence against women, it can be concluded that not enough is being done; domestic violence is widespread in all La Strada countries and goes unpunished. Prosecution and punishment of the perpetrators in all La Strada countries falls short of state obligations. Unfortunately, 'impunity not only encourages further abuses, it also sends the message that male violence against women is acceptable or normal.'⁸⁹

Impunity thus contributes to the belief that domestic violence is part of everyday life, which in turn explains why women are often unaware of the fact that their rights have actually been violated and therefore do not report the abuse. According to the CEDAW shadow report of **Belarus**, 'most of the time women themselves don't understand that they are being discriminated against and subjected to violence.'⁹⁰ This is one of the reasons why domestic violence is often not reported; women perceive the situation as normal and accept it as it is. This underlines the importance of enhancing the awareness of rights among women in the La Strada countries.

Another reason for not reporting is the sometimes justified belief that it will only make matters worse, as no sufficient action is taken to protect the victim after she has reported rights violations to the police. In **Ukraine** for example, police often do not take reported cases seriously. Another problem is corruption or unlawful behaviour by police officers themselves. In one case, a woman was even told she should provide sexual services to the police officer if she wanted the case to be processed quickly.⁹¹

88 Ibid.

89 General Assembly, *In-depth study on all forms of violence against women*, 103.

90 Belarus shadow report, 1.

91 Amnesty International, *Ukraine*, 8.

Another reason for underreporting is that victims of domestic violence are often economically dependent on the perpetrators and therefore afraid to report the person they are dependent on.⁹² This shows the important relationship between the economic and the social positions of women, as economic dependence increases vulnerability to violence.⁹³ If the structural causes of violence against women are not eradicated, causes which are in fact reinforced by the re-patriarchalisation of societies in which women are seen as subordinate to men, domestic violence will not be eliminated.

In order to tackle domestic violence, first and foremost a comprehensive legal framework is needed. Almost all La Strada countries, except for **Belarus**, have adopted laws on domestic violence. The problem is, however, that the laws are often gender-neutral, thus not addressing the fact that domestic violence affects women and men differently. Some draft or already adopted laws, as in **Belarus** and **Ukraine**⁹⁴, even contain provisions which are harmful to women who become victims of violence, such as the concept of ‘victim behaviour’, which lays down that the victim can be held accountable for the violence experienced due to his or her own behaviour. It has been found that this concept is used to ‘support the assumption that women are to blame for provoking violence, and thus perpetrators can avoid prosecution’.⁹⁵ These provisions should be eliminated from the (draft) laws without exception.

With regard to providing victims of domestic violence with assistance, a major problem is the fact that there is a lack of medical, socio-psychological and other assistance, as well as short or long-term shelter where needed. In nearly all La Strada countries there is a scarcity of shelters, which are not funded by the state. In **Bulgaria**, for instance, there are only two shelters for victims of domestic violence in the entire country, as well as two crisis centres, one of which is run by La Strada Bulgaria.⁹⁶ In **Ukraine**, there were only sixteen institutions at the end of 2006 in the country providing medical and social assistance to victims of violence in the family, which is far too

92 See for instance BiH shadow report, 30.

93 General Assembly, *In-depth study on all forms of violence against women*, 32.

94 A new draft law (no 2539) on amendments and additions to some legislative acts in Ukraine on prevention of violence in the family was passed in its first reading in February 2007, but still needs to be adopted by the Verkhovna Rada.

95 Amnesty International, *Ukraine*, 6.

96 Open Society Institute, *Violence against Women. Does the Government Care in Bulgaria? Factsheet* (2006), 2.

few to cater for the needs of the entire population.⁹⁷ In **Moldova**, there is currently only one shelter for victims, situated in the capital Chisinau. The problem in all countries is the lack of places, nor can such shelters be found in rural and remote areas.

An important measure in countering domestic violence is informing victims about their rights to assistance, compensation and legal redress. A vital tool for informing persons about their rights are telephone hotlines, where people can seek advice and help. In some countries, such as **Ukraine** and **Bulgaria**, these hotlines are run by La Strada. But it is not only victims of violence who need this support. As most of the laws on domestic violence are relatively new, knowledge about them is also lacking even among the law enforcement personnel and the judiciary. Education and training of the law enforcement agencies such as the police and judiciary, as well as health care workers, social workers, and teachers, should include the new laws, as well as ways to recognise and deal with domestic violence. But not only specific groups should be informed; it is also imperative that awareness-raising campaigns are set up to increase public understanding of domestic violence as a human rights violation. This should be included in school curricula as well as in broad media campaigns.

A general serious shortcoming in most La Strada countries of the entire system on preventing and countering violence in the family is the fact that the focus is exclusively on victims of the violence, while excluding the actual perpetrators. The process of victimisation of those who have suffered from violence in the family is thereby endorsed and the effectiveness of action to prevent violence is diminished. More measures should be taken that are targeted towards the perpetrators, such as issuing of restraining and eviction orders, which entail that abused persons are entitled to stay in their own homes instead of having to live in a shelter, while the perpetrator is forced to live somewhere else.

However, legal frameworks and the measures described above are not effective if they are not accompanied by sufficient resource allocation and monitoring structures in order to have effective implementation and enforcement. In most La Strada countries, implementation falls short and necessary financial resources are insufficiently allocated. What is most of

⁹⁷ Kharkiv Human Rights Protection Group, *Human rights in Ukraine. Key human rights issues in cases involving domestic violence.*

all needed to end domestic violence is, as the Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg, recently stated, the political will.⁹⁸ Without this, all other measures taken will prove to be futile.

What might convince authorities to take more effective counter-measures preventing domestic violence is the fact that it is not only a private issue and harmful for the victim, but that there are high costs involved for society as a whole, which can be divided into indirect and direct costs.⁹⁹ Indirect costs concern human suffering, the pain and fear of the victims, as well as the disruption of their lives. Direct costs are more easily assessable; these are the costs of the services and facilities provided to victims of violence, such as health care, social services and law enforcement. These costs are probably higher than generally realised: a study in the United Kingdom estimated, for instance, the cost of domestic violence to constitute up to € 34 billion annually, amounting to € 555 per capita of the population per year.¹⁰⁰ What is needed is additional research on the global costs of domestic violence, in order to raise public awareness and establish effective counter-strategies.

Domestic violence increases vulnerability to trafficking

Domestic violence is not only costly for society; it can also increase the risk of being trafficked. This is confirmed by a study on the health consequences of trafficking, which found that 60% of 207 interviewed women reported they had experienced some form of violence prior to being trafficked.¹⁰¹

Domestic violence creates vulnerability to trafficking in three main ways, as a recent study indicated:¹⁰²

1. Domestic violence may act as a catalyst that ultimately results in trafficking. The urge to escape may enhance risk; and/or

98 Thomas Hammarberg, CoE Commissioner for Human Rights, 'Still Not Sufficient Services for Women Victims of Violence', *Keynote speech at the conference on 'Support Services for Women Victims of Violence'* (2007).

99 Council of Europe, *Combating violence against women*, 9.

100 Walby (2004) cited in *Ibid.*, 13.

101 Zimmerman et al., *Stolen smiles: a summary report on the physical and psychological health consequences of women and adolescents trafficked in Europe* (2006), 9.

102 Stephen Warnath, *Examining the Intersection between Trafficking in Persons and Domestic Violence* (2007).

2. Domestic violence may erode an individual's self-esteem and self-confidence, thereby increasing vulnerability to traffickers; and/or
3. Domestic violence may force children into absence from school at an early age or lead to trouble in school, or to the child's engaging in other risky, dangerous or self-defeating behaviour; lowering job prospects at home and increasing their vulnerability to trafficking.

Although the above study concluded that, due to the limitations of the available data, a causal link could not be empirically established, La Strada believes that domestic violence is undeniably a contributory factor in vulnerability to trafficking. Although there is clearly a need for better data collection and research on this link, the experience of La Strada shows that there is a high incidence of domestic violence among trafficked persons.

La Strada **Belarus**, for example, estimates that 30% of all trafficked persons it has assisted have a background of domestic violence.¹⁰³ The outcome of research conducted by La Strada **Bulgaria** found that 10 out of 23 trafficked persons (43,5%) whose family background information was known had experienced some form of domestic violence prior to being trafficked.¹⁰⁴ Another research found that in 2003, 39% of the identified and assisted trafficked persons in Bulgaria (and more than 31% in 2004) had experienced violence or abuse prior to being trafficked.¹⁰⁵ According to research on domestic violence conducted by La Strada **Moldova**, 80% of assisted trafficked persons in Moldova indicated that domestic violence was the reason for their decision to emigrate.¹⁰⁶ In **Ukraine**, domestic violence is also noted as a possible risk factor contributing to trafficking. It has been found that 'as well as poverty and unemployment, another factor causing people to travel abroad for work is domestic violence against women.'¹⁰⁷ An NGO in Ukraine reported that as many as 50% of the trafficked women that they advised were victims of domestic violence before they went abroad.¹⁰⁸ La Strada Ukraine's experience also shows that many of the

103 From interview with La Strada Belarus.

104 Milena Stateva, 'Case studies on Trafficking in Women in Bulgaria', in: Animus Association Foundation (La Strada Bulgaria), *Trafficking in Women. Questions and Answers* (2000), 37-50.

105 Surtees, 175.

106 Research on Domestic Violence in Moldova (forthcoming in 2008).

107 Kharkiv Human Rights Group, 'One of the reasons for labour migration in Bukovyna may be the prevalence of domestic violence', <http://khpg.org.ua/en/index.php?id=1174656128>.

108 Amnesty International, *Ukraine*, 3.

clients had undergone violence in the past, which partially contributed to trafficking, as for instance in the case of Stefka (see box 5).

Box 5 Stefka – Bulgaria

Stefka is Roma. She was born in a medium-sized town in Bulgaria. The family was poor. She grew up at home until the age of 9. Her mother changed partners quite often. Stefka had several brother and sisters.

One of her mother's partners raped Stefka when she was 9 years old. After that, her own brother sexually abused her. Her mother did not believe her daughter's stories and sent her to a care institution. Stefka is the only child in the family who grew up in an institution.

In the institution, Stefka also suffered physical and sexual violence from the older children. There she began prostituting herself and from that point on has been passed on and sold from pimp to pimp. She was later taken abroad and forced to prostitute herself under threats of violence and was locked up. At the age of 20, Stefka became pregnant and has a daughter, which she has left in a care institution. Now the child is almost 7 years old. Stefka is afraid for her, because her pimps know where her child lives and have threatened to hurt her.

During one of her stays abroad Stefka managed to run away and was placed in a shelter of La Strada Poland. They referred her to the Crisis Center of La Strada Bulgaria.

Domestic violence among trafficked persons might occur much more frequently than has been reported so far, because trafficked persons themselves often do not recognise that what happened to them is in fact domestic violence and constitutes an unlawful act. Furthermore, when trafficked persons are first identified, they often do not reveal their whole life story in the short time they spend with assistance providers. It can also be due to traumatic experiences that trafficked persons do not report domestic violence, as they might be dealing with the issue by way of denial, repression or dissociative behaviour.

Domestic violence and trafficking do not have a simple causal relationship. Not all abusive situations lead to trafficking, nor do all trafficked persons have a violent background. La Strada, however, has found that domestic violence may indeed increase the vulnerability to becoming trafficked, although this should also not be isolated from other complex root causes, which together may result in trafficking. As domestic violence is a violation of human rights it needs to be tackled effectively. It is also essential that more extensive data collection and research need to be done concerning the link between domestic violence and trafficking, in order to adopt effective policies and programmes.

La Strada is convinced that the effective prevention and combating of domestic violence can have a positive impact on the prevention of trafficking. Yet, domestic violence prevention programmes have in the last few years been replaced by anti-trafficking programmes, with the argument that there is a need 'to meet the new demand' or simply as 'a lack of funding for anti-violence programmes and the availability of funding for anti-trafficking work.'¹⁰⁹ However, reducing the risk of trafficking in human beings might be achieved effectively, and possibly with fewer resources, by way of a properly functioning support system for victims of domestic violence. Anti-violence programmes should be geared towards stopping violence and protecting victims, but they should also be seen as a possible long-term investment to prevent trafficking and 'as part of an early warning system in places where trafficking might re-emerge.'¹¹⁰

Conclusion

In all La Strada countries it is evident that patriarchal values and norms are widespread and that they reinforce the idea that women are in a subordinate position to men. In most of the La Strada countries that have undergone the transition from centrally planned economies to market economies, and related political transformations, a repatriarchalisation of society has been detected. Due to its association with the Communist regime in public

¹⁰⁹ Barbara Limanowska, *Trafficking in Human Beings in South Eastern Europe. 2004 – Focus on Prevention in: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Moldova, Romania, Serbia and Montenegro, and the UN Administered Province of Kosovo* (2005), 20.

¹¹⁰ *Ibid*, 21.

consciousness, gender equality has negative connotations which have been paralleled by a revival of gender-role stereotypes. This stereotype, which attaches specific roles and responsibilities to women and pushes them from the public into the private spheres of life, influences the position of women in the family, in the labour market and even in the migration process. It is this view of women which perpetuates the notion that they are objects rather than subjects.

This unequal power relationship between men and women is clearly reflected in the fact that domestic violence is pervasive in all La Strada countries. Although men can also be subjected to domestic violence, the majority of the victims are women and children. Domestic violence can be seen as the result of gender inequality, as well as a tool to reinforce it. Currently not enough mechanisms are in place in the La Strada countries to effectively tackle domestic violence. This is, however, of the utmost importance, as the experience of La Strada shows that there is a high incidence of domestic violence among trafficked persons, indicating that it is one of the risk factors contributing to trafficking. By preventing domestic violence and providing effective protection and assistance to victims and witnesses of violence, the risk of trafficking might be reduced. Prevention of domestic violence should thus be seen as an indirect prevention of trafficking in human beings and should be prioritised.

Recommendations for improving the social position of women, to eradicate gender-stereotype attitudes and (domestic) violence

- Campaigns promoting equality between men and women should be organised to raise public awareness. These campaigns should be targeted towards men as well as women, in order to eliminate stereotype attitudes resulting from patriarchal norms and values. This message should be included in school curricula in order to ensure that children become aware of gender equality from an early age. The media should also be encouraged to promote the equal status and responsibilities of women and men in both the private and public sphere.
- Awareness-raising campaigns should emphasise that violence targeted at women is unacceptable and a serious violation of their rights.
- The governments of La Strada countries should ensure that effective legislation is implemented, in particular sanctioning all forms of violence against women (and specifically domestic violence) to ensure the prosecution and punishment of such crimes.

- The legal framework should include restraining and eviction orders targeted at the perpetrators, as well as offering counselling in order to assist in their rehabilitation. The cooperation of perpetrators should not, however, negatively affect judicial procedures for legal redress and compensation.
- This legal framework must include effective services for victims of domestic violence, as well as immediate means of redress and protection, including protection orders and access to free legal aid and accessible shelters in sufficient numbers. Services such as shelters for victims of domestic violence should be available in all countries, especially in remote rural areas, and run in collaboration with NGOs experienced in protecting women from violence.
- In order to be effective, the legal framework must be accompanied by sufficient financing in order to ensure the effective operation of responsible organisations, as well as sustainable support and services for victims of domestic violence.
- Governments should establish training programmes in close cooperation with experienced NGOs for public officials such as law enforcement personnel, the judiciary, health-care providers, social workers and teachers, to make sure they are familiar with the laws and to ensure they are able to recognise and address domestic violence in the proper manner.
- In order for the legal framework to be effectively implemented, a monitoring body should be put in place in each country in which NGOs are involved, with at least a consultative status.
- For all persons subjected to domestic violence, information as to their rights should be readily accessible, either through intervention centres or specific hotlines. Hotlines should be set up (as far as this has not already been done) where victims of domestic violence can seek advice and assistance and where domestic violence can be reported anonymously. These hotlines should be staffed by qualified personnel.
- All La Strada countries should collect gender-sensitive data regarding violence against women, in order to develop sustainable strategies to combat this human rights violation.
- More comprehensive research needs to be carried out on domestic violence and on the link between trafficking in human beings and domestic violence, so as to be able to tackle the problem effectively.

6 The position of women in the labour market in the La Strada countries

The position of women in the labour market is closely related to the vulnerability of women to violence, as the economic dependence of women has implications for their activities and their social position. As the UN Secretary-General stated, '[w]omen's economic inequalities and discrimination against women in areas such as employment, income, access to other economic resources and lack of economic independence reduce women's capacity to act and take decisions, and increase in turn their vulnerability to violence.'¹¹¹

Economic independence increases the ability of women to empower themselves and take their lives into their own hands, including making their own decisions on what is best for them. In order to protect women from violence, it is therefore crucial to create economic independence by creating equal opportunities in countries of origin as well as destination.

According to the CEDAW Convention, the right to work is an inalienable right of all human beings.¹¹² States are obliged to ensure the same employment opportunities for both women and men, including the application of the same selection criteria for recruitment. Women also have the right to choose their own profession and the right to just remuneration, that is, equal pay for equal work.

All La Strada countries have ratified the CEDAW Convention. Most countries have adopted laws in accordance with their international obligations that prohibit discrimination in the labour market and that contain provisions on equal pay for equal work. However, in practice, women in all La Strada countries do not have the same employment opportunities as men, and equal pay is not enforced.

¹¹¹ General Assembly, *In-depth study on violence against women*, 32.

¹¹² Article 11 CEDAW.

6.1 The transition process

Since the early 1990s, almost all La Strada countries have experienced the transition from centrally planned to market economies. This economic restructuring has led to a significant deterioration in the position of women, as a recent study of UNIFEM has shown.¹¹³ Due to, amongst other things, wage liberalisation and privatisation, unemployment, poverty and economic inequality have increased dramatically, and especially affected women. Labour market restructuring has gone hand in hand with cuts in social security and benefits and the closure of child care centres.

Regarding **Belarus** and **Ukraine**, this transition has clearly led to a worsening of the position of women and the reduction of their economic, social and political rights.¹¹⁴ This has been caused by the development of women shifting from the public to the private sphere, because of the above-mentioned repatriarchalisation. Another trend which caused the deteriorating position of women is the increased vulnerability of women to poverty. In **Bosnia and Herzegovina** and **Macedonia**, the transition – and the armed conflict in the region in the 1990s – has negatively affected women, leading to a decline in their economic and social status.¹¹⁵ This can be ascribed inter alia to the repatriarchalisation of society, together with high levels of bankruptcy, increased unemployment, cuts in social services and public spending, the abolition of economic and social rights gained during the socialist era and the increasing shift of the labour force, especially women, from the formal to the informal sector.

Three of the La Strada countries that were also seriously affected by the transition process have recently joined the EU, namely, the **Czech Republic** and **Poland** in 2004, and **Bulgaria** in 2007. The accession process required the introduction of gender equality legislation. However, economic growth was prioritised over social concerns and gender equality was not given the attention it needed. For **Poland**, it can even be stated that accession to the EU had a negative impact on the economic situation of women. The worsening position of women in society was, however, not only caused

¹¹³ UNIFEM, *The story behind the numbers*, 8.

¹¹⁴ WIDE Information sheet, *The enlarged EU and its agenda for a wider Europe: what considerations for gender equality? EU neighbouring countries in Eastern Europe/Former Soviet Union* (2004).

¹¹⁵ WIDE Information sheet, *The enlarged EU and its agenda for a wider Europe: what considerations for gender equality? EU neighbouring countries: the Western Balkans* (2004).

by macroeconomic factors and the lack of social policies, but was also induced by the strengthening of patriarchal values and norms by the Catholic Church.¹¹⁶

The emphasis put here on the effect of the transition process on the position of women does not mean that men have not also been negatively affected by the transition process. However, research has also found that the worsening of the economic and social position of men has in turn placed additional burdens on the position of women due to increased poverty, violence and alcohol abuse.¹¹⁷

6.2 Unemployment of women

The fact that women have fewer opportunities in the economic sphere of life are underlined by unemployment figures. When looking at the most recent unemployment rates for the La Strada countries (see Table 1) it becomes clear that women have fewer opportunities in the labour market than men. According to official unemployment figures, in six La Strada countries, namely, **Belarus, Bosnia and Herzegovina, the Czech Republic, Macedonia, the Netherlands and Poland**, the unemployment rates for women exceed those of men. In **Ukraine, Moldova and Bulgaria**, unemployment rates are slightly higher amongst men. When assessing these data, however, it should be noted that women are typically underrepresented in official employment statistics, due to their location in the private sphere (see also below).

Table 1: Unemployment rates (%) in the La Strada countries

	<i>total</i>	<i>female</i>	<i>male</i>
Belarus (2006)	1,2	1,5	0,9
Bosnia-Herzegovina (2006)	31,1	34,9	28,9
Bulgaria (2004)	12,0	11,5	12,5
Czech Republic (2005)	8,0	9,8	6,5
Macedonia (2004)	37,2	37,8	36,7

¹¹⁶ WIDE Information sheet, *The enlarged EU and its agenda for a wider Europe: what considerations for gender equality? EU Central and Eastern Europe new member states* (2004).

¹¹⁷ UNIFEM, *The story behind the numbers*, 16.

Moldova (2006)	7,4	5,7	8,9
The Netherlands (2005)	4,7	5,1	4,4
Poland (2005)	17,8	19,1	16,6
Ukraine (2006)	6,8	6,6	7,0

Source: *UNECE Statistical database*¹¹⁸

A significant problem which can be noted from the unemployment figures is the **lack of access to the labour market for young persons**. When examining the rates of youth unemployed (see Table 2), i.e. the unemployed between 15-24 years of age, it is significant that in several countries these rates are double the rate of the 'general' employment rate, implying that unemployment is disproportionately higher among youth. Again, in the majority of the La Strada countries this rate is higher for women than for men. These high unemployment rates for young persons could be conducive to pro-migration attitudes among those seeking a better life abroad, thus increasing the risk of trafficking.

Table 2: Youth unemployment rate (%) in the La Strada countries

	<i>Total</i>	<i>female</i>	<i>male</i>
Belarus (2006)	—	—	—
Bosnia-Herzegovina (2006)	62,3	65,7	60,2
Bulgaria (2006)	19,5	20,3	18,9
Czech Republic (2006)	17,5	18,7	16,6
Macedonia (2005)	62,6	62,2	62,9
Moldova (2005)	18,7	18,3	19,1
The Netherlands (2006)	6,6	7,1	6,1
Poland (2005)	29,8	31,6	28,3
Ukraine (2005)	14,9	14,4	15,2

Source: *UNECE Statistical Database*

¹¹⁸ The UNECE database is accessible at www.unece.org. The unemployed comprise all persons above a specific age who during the reference period were: (a) – without work – i.e. were not in paid employment or self-employment; and (b) – currently available for work – i.e. were available for paid employment or self-employment during the reference period; and (c) – seeking work – i.e. had taken specific steps in a specified reference period to seek paid employment or self-employment. Youth unemployment is measured by studying the active population aged 15-24.

Nevertheless, although these unemployment figures show that especially young women are affected by unemployment, it is important to note that these official figures do not necessarily reflect the actual situation. When examining and comparing 'officially registered' employment data, one has to bear in mind that generally the unemployment rates do not take into account that share of the population that is not economically active, e.g. people who have never been, or are not yet, part of the labour force (e.g. students and housewives), persons who have stopped looking for work, are on maternity leave, are retired, etc. The majority of this economically inactive share of the population is female. Women working in the informal sector are also often not taken into account in employment statistics.¹¹⁹

Another aspect that should be considered regarding unemployment figures is that they provide an official national average. Unemployment can greatly vary between regions, between urban or rural areas, and between different (ethnic) groups of women. In **Bulgaria** for instance, vast differences can be discerned between regions, the highest unemployment being in the Northwest, which is a major transit zone for trafficking.¹²⁰ The unemployment rates of ethnic minorities, such as Roma and Albanian women in **Macedonia**, as well as Roma women in the **Czech Republic** are also much higher.¹²¹

6.3 No equal pay for equal work

Not only do women have fewer opportunities in the labour market than men; they often receive lower wages than men, as their work is not equally valued. Even though in nearly all La Strada countries women are on average better educated, they tend to be employed in low-wage sectors and receive less pay for equal work. In all La Strada countries, women are overrepresented in the public and the services sector, which are often lower-paid jobs with inferior status and with less prospects of professional development.¹²² There is thus a need to address the fact that traditionally feminised labour sectors (e.g. health care, education, domestic services) are underpaid. This

119 UNIFEM, *The story behind the numbers*, 32-39.

120 Save the Children, *Children speak out*, 21.

121 Roma Centre Skopje et al., *Shadow Report on the situation of Romani Women in the Republic of Macedonia* (2006); Czech shadow report, 29.

122 UNIFEM, *The story behind the numbers*, 41-52.

requires efforts in two directions: on the one hand, ensuring sufficient remuneration in these sectors, and on the other, creating conditions for women which allow them to access other labour sectors more easily.

It also applies to all La Strada countries that women earn less than men in the same position, even though women generally receive higher education. The gender pay gap, that is the difference between men's and women's average gross hourly earnings, ranges from 10% in Poland to 29,1% in Ukraine (see Table 3). Although part of this gender pay gap is caused by the fact that women more frequently work part-time compared to men, it nevertheless shows that labour done by both a man and a woman is not equally appreciated. The gender pay gap also reflects the 'glass ceiling' phenomenon, which implies that women often encounter difficulties in getting through to managerial or other top positions.

Table 3: Gender pay gap in % (year) in the La Strada countries

Belarus	20,9% (2005)
Bosnia-Herzegovina	Unknown ¹²⁴
Bulgaria	16% (2005)
Czech Republic	19% (2004)
Macedonia	17,5% (2005)
Moldova	28,7% (2004)
The Netherlands	18% (2005)
Poland	10% (2005)
Ukraine	29,1% (2005)
EU	15% (2006) ¹²⁵

Source: UNECE statistical database and Eurostat

The 'glass ceiling' phenomenon mentioned above is in turn reflected in the fact that women are underrepresented in political and financial decision-

¹²³ No data can be derived from the UNECE statistical database. Research has shown that men earn 2.3 times more than women. Source: Star Network Research 2000 quoted in: Open Society Institute, *On the Road to the EU: Monitoring Equal Opportunities for Women and Men in Bosnia and Herzegovina* (2006), 19.

¹²⁴ The data on the gender pay gap in the EU has been taken from Eurostat, accessible at: <http://epp.eurostat.ec.europa.eu/>.

making. As Table 4 shows, in all the La Strada countries, the percentage of women in political and financial decision-making positions is minimal. Even in the **Netherlands**, which has the longest history of democracy, the representation of women in political life is far from equal to the participation of men. As Polish NGOs have noted, ‘the problem of low representation of women in political life resembles a vicious circle: lack of proper legislation results in the low representation of women in politics and so diminishes the chance to adopt special measures to boost women’s participation.’¹²⁵

Table 4: Women in political and financial decision-making in the La Strada countries

	<i>Female government ministers (2006)</i>	<i>Female parliamentarians (2007)</i>	<i>Central bank board members (2006)</i>
Belarus	3,2%	29,1%	18,2%
Bosnia-Herzegovina	11,8%	14,3%	20%
Bulgaria	16,7%	22,1%	14,3%
Czech Republic	13,3%	15,5%	0%
Macedonia	15,8%	28,3%	22,2%
Moldova	29,4%	21,8%	0%
The Netherlands	29,4%	36,7%	0%
Poland	18,2%	20,4%	11,1%
Ukraine	0%	8,7%	18,8%

Source: UNECE statistical database

6.4 Violation of rights in the labour market

In some La Strada countries women often work in the grey sector of the economy, also referred to as the ‘informal’ or ‘shadow’ economy. As there is a lack of official data it cannot be ascertained whether more women than men work in this sector, although it is likely that this sector provides economic opportunities for far more women than men.¹²⁶ As the informal sector is unregulated and no specific labour laws apply, the probability of

¹²⁵ Poland shadow report, 12.

¹²⁶ BiH shadow report.

rights violations is high. For example, research on the role of women in the informal economy in **Bulgaria** has found that women in this sector 'put up with poor working conditions and violations of their rights'.¹²⁷ This has also been discerned in several other La Strada countries: according to a survey among 700 women working on the markets of the capital city of **Moldova**, 67% of women had no social or legal protection in the form of formal contracts and insurance.¹²⁸ In **Bosnia and Herzegovina**, anecdotal evidence suggests that 'in cases of pregnancy, women are automatically excluded from the marketplace.'¹²⁹

However, such labour rights violations are not only restricted to the informal economy. Women's rights are violated over the whole spectrum of the labour market, starting with the recruitment processes in which women often face severe discrimination. Discrimination in vacancy advertisements, although common practice in most La Strada countries, is endemic in **Ukraine**, according to research by Human Rights Watch.¹³⁰ Often female job applicants are asked to provide evidence that they are not pregnant and sign contracts in which they promise not to become pregnant. Similar practices are also reported to take place in **Belarus**, according to NGO reports.

Some countries have legislation in place that prohibits women from doing certain types of work. In **Ukraine**, labour legislation contains provisions based on women's reproductive health protection that in practice leads to discrimination.¹³¹ This is also the case for **Moldova**, where the law stipulates for instance that pregnant women, women on maternity leave or women with children under the age of 3 are prohibited to go on business trips, thus limiting their opportunities of work.¹³²

Furthermore, sexual harassment at work is also widespread in nearly all La Strada countries. In the case of **Belarus**, the government estimates that 12% of women have been subjected to sexual harassment in the

127 UNIFEM, *Women in the Informal Economy in Bulgaria* (2004), 38.

128 Moldova shadow report, 14.

129 BiH shadow report.

130 Human Rights Watch, *Ukraine. Women's Work: Discrimination Against Women in the Ukrainian Labour Force* (2003).

131 Ibid.

132 Moldova shadow report, 11.

workplace.¹³³ In **Moldova**, incidents have been reported that range from indecent remarks to ‘imposing sexual relationships as a tool for career promotion’.¹³⁴ These rights violations can be viewed as evidence that patriarchal stereotypes are mirrored in the work place.

6.5 **Double ‘burden’ for working women**

Patriarchal values and norms stipulate that women are primary caretakers of the household and the children. When working, women face a double burden or double occupation, leading to ‘practically a double working day’.¹³⁵ In nearly all La Strada countries, there is a lack of child care facilities and those that do exist are often unaffordable, thus forcing women to stay at home. This reveals again the widely-held belief in most La Strada countries that women should be at home taking care of the children instead of working, which has led to women who could be economically active shifting from the public to the private domain.

An apparent link can be discerned between the reproductive rights of women and their situation in the labour market. Especially in **Poland**, where access to contraceptives is limited and abortion is illegal, the reproductive rights of women have a significant impact on the position of women in the labour market. As the Polish CEDAW shadow report states: ‘Women who cannot decide freely whether they will have children, when they will have them, and how many children they will have, are severely disadvantaged. Their economic choices and employment opportunities are especially restricted. Employers tend to treat women as ‘risky’ workers due to their uncontrollable fertility. As a result, they offer women less secure employment contracts than they offer male workers, or simply give the job to a man.’¹³⁶

133 CEDAW conclusions Belarus, 55.

134 Moldova shadow report, 20.

135 Ibid., 21.

136 Poland shadow report, 15.

6.6 Feminisation of poverty

The fact that women have a higher chance of unemployment, and when employed are paid less, has the consequence that women often do not make enough money to make ends meet. Poverty is not only caused by unemployment, but also by poor wages, even for well-qualified professions such as doctors, medical personnel, and teachers, the majority of whom are also women. This has led to the situation that many women are frequently economically dependent on their husbands and unable to rise out of poverty.¹³⁷

The result of the above-mentioned developments is that there is a tendency towards the *feminisation of poverty*, implying that 'women have a higher incidence of poverty than men, that their poverty is more severe than that of men and that poverty of women is on the increase'.¹³⁸ According to the Council of Europe, the root cause for the feminisation of poverty is gender inequality and the main issues regarding the economic situation of women are discrimination of women in the labour market, insufficient employment opportunities for women and insufficient social security for working women.¹³⁹ A recent study on the situation in **Bulgaria** indicated that the feminisation of poverty could affect the numbers of women seeking a better life abroad and thus increase their vulnerability to exploitation and trafficking.¹⁴⁰

This feminisation of poverty is an important root cause of migration which also increases vulnerability to trafficking of which the case of Svetlana (see box 6) is an example. 'With the feminisation of poverty, the pressures are increasingly strong on women to earn a living and they find it increasingly difficult to resist the promise of jobs and higher incomes in a foreign country and are willing to take their chances'.¹⁴¹ As for the situation in **Moldova** it has been concluded that '[w]ithout human and social resources for confronting the difficult situations in life, women cherish hope to find a job in a country in Western Europe, becoming quite often victims of the

137 UNIFEM, *The story behind the numbers* (2006), 41.

138 Parliamentary Assembly of the Council of Europe, *Feminisation of poverty. Resolution 1558* (2007), 1.

139 *Ibid.*, 3, 12.

140 Save the Children, *Children speak out*, 24.

141 ILO (2003), 31.

traffic in human beings.¹⁴² According to a comprehensive report on trafficking in South Eastern Europe, the main reason for people to leave home was indeed to work abroad.¹⁴³

Box 6 **Svetlana – Bosnia and Herzegovina**

Svetlana is a 20-year-old Ukrainian girl. Her family was very poor and she was looking for a job, but could not find one. When she was offered a job in Bosnia-Herzegovina, she accepted it. The men offering the job told her they would take care of everything and would organise the trip, too. She gave them her passport, as they told her that they could get a visa easily.

After a few days she arrived in Bosnia-Herzegovina and was forced to work in a restaurant as a stripper for some months. In order to avoid problems with the police force, which raided the restaurant and told Svetlana to leave the country, as her visa was presumably false, the owner sold her to his friend in Sarajevo along with another girl. She was physically and psychologically abused and forced into prostitution. She was then sold to another man, who sold her again after a few months. During her stay in Bosnia-Herzegovina, she was sold nine times and every single penny she earned ended in the pockets of the bar owners.

One day, one girl working in the same bar tried to commit suicide, an incident which was published in the all local news papers. The national coordinator from La Strada Bosnia and Herzegovina read about the case and managed to persuade the bar owner to let her talk to the girl who had tried to commit suicide. She did not want to come to the La Strada shelter, but Svetlana asked for help and was taken to the shelter, where she was assisted by the La Strada team. The girl who tried to commit suicide, Kristina, managed to escape from the bar later on and then contacted La Strada, asking for assistance.

Researchers from various countries have also noted that, in a situation of poverty, women are more likely to agree to work which does not match their level of education and qualifications, whereas men in similar situations hesitate. What also influences this is the growing number of families where

142 Moldova shadow report, 25.

143 Surtees, 14.

women are the main breadwinners, bearing the burden of responsibility for the entire family, as in Ukraine.¹⁴⁴

However, one has to bear in mind that it is not only absolute poverty and lack of opportunities that act as catalysts for migration and therefore increase the risk to fall into the hands of traffickers. Relative poverty also plays a significant role. Due to huge wealth discrepancies in the world today, which are increasingly visible through television and the Internet, women and men are willing to take risks in order to improve their position, induced by growing materialism and the desire for a better life.¹⁴⁵

The creation of equal opportunities regarding employment is undeniably an empowering strategy to prevent trafficking, as research has shown.¹⁴⁶ Instead of trying to stop migration or making it more difficult for young women to migrate, a step forward would be to improve the situation of women in the labour market by creating equal opportunities at home. As the achievement of economic independence could reduce vulnerability to violence, La Strada believes that the economic empowerment of women will prove to be among the most successful preventive strategies to trafficking.

La Strada currently runs various programmes on preventing (re)trafficking, such as providing social assistance to trafficked persons in La Strada shelters. To increase the chance of successful reintegration and the social inclusion of trafficked persons, vocational training programmes are provided, as well as assistance in finding suitable employment. The case of Maria (see box 7) from Macedonia shows that these activities can indeed be successful and make a difference to people's lives. However, it would be more effective and reduce human suffering if governments would focus more on prevention measures on equal opportunities, before trafficking has in fact taken place.

¹⁴⁴ Email correspondence with La Strada Ukraine, see also www.awid.org/go.php?stid=1429.

¹⁴⁵ ILO (2003), 31.

¹⁴⁶ UNIFEM, *Creating Economic Opportunities for Women in Albania: A Strategy for the Prevention of Human Trafficking* (2006).

Box 7 **Maria – Macedonia**

Maria comes from a city in Macedonia where she lived together with her four siblings and mother, who is chronically ill. Maria is 24 years old and has finished textile school. The family is very poor and they are living in appalling conditions, in one room, without water and sanitary facilities. When Maria finished her education she started to look for a job to help the family, but without success. She was offered work in some night-bars but always refused. She found a job in a garment factory, but under very bad working conditions, working 12 hours a shift, in rooms without ventilation and for a salary of € 70 per month without social and health security. She worked for three months but did not receive any pay, although the owner promised every month that next month she would receive it. When she realised that she would not get any money, she decided to leave the factory. Due to the very limited job offers in town and very bad situation in the family, she decided to start working in a restaurant. In the beginning she was paid well (around € 100), and she was happy she could help at home. But after two months, the owner started to force her to provide sexual services to the clients in order to earn her promised salary. She was threatened that if she told anybody the video materials of her and the clients would be shown to her mother and the public.

This situation lasted for six months before she decided to report the sexual exploitation to the police. She was accommodated in the La Strada Macedonia shelter and after a period of rehabilitation started a professional course as a hairdresser. After her emotional condition had been stabilised and on finishing the course, she returned to her home town, supported by the centre for social work, and started to work in a hairdressing salon. La Strada maintains regular contact with her.

Conclusion

This chapter has shown that in all La Strada countries women are faced with unequal opportunities in the labour market. In the majority of La Strada countries, the (youth) unemployment rates for women are higher than those of men. When working, women tend to be employed in lower-paid sectors, resulting in lower-paid jobs, which has the consequence that

on average women have lower incomes than men. This leads to economic dependency and an increase in poverty among women, also referred to as the feminisation of poverty.

The lack of opportunities in the labour market and the related feminisation of poverty reportedly force women to try their luck abroad. Women are more ready to take on promising job offers in other countries, which can indeed lead to trafficking, as the next chapter will show.

The creation of equal opportunities regarding employment is therefore undeniably an empowering strategy to prevent trafficking. Instead of trying to stop migration or making it more difficult for young women to migrate, a step forward in preventing trafficking would be to improve the situation of women in the labour market by creating equal opportunities at home. As the achievement of economic independence could reduce vulnerability to violence, La Strada believes that the economic empowerment of women will prove to be among the most successful preventive strategies to trafficking.

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Recommendations for improving the position of women in the labour market

- Governments should promote equal opportunities in the labour market by incorporating gender equality and gender mainstreaming in all (labour) legislation.
- There is a need for stronger political will, accompanied by the allocation of sufficient financial resources for successful implementation of the legislation on gender equality.
- Governments should adopt and implement national action plans which incorporate measures in the labour market for the advancement of women.

- Transparent job evaluation and wage-setting mechanisms should be established in order to create standards governing equal pay for equal work.
- A legal framework should be put in place which sanctions discrimination in the labour market and sexual harassment by employers.
- Law enforcement agencies and the judiciary should receive training in order to become more gender-sensitive regarding women's rights in the labour market.
- Control mechanisms should be established in cooperation with experienced NGOs to assess whether progress is being made in the implementation of laws.
- Governments should take measures such as the adoption of quota systems to ensure that women are proportionally represented in political and economic decision-making bodies
- Women need to be informed of their rights regarding employment, such as the prohibition of discrimination and the principle of equal pay. Employers should be made aware that discrimination against women is a criminal offence.
- Affordable child care should be made available in all countries, as well as flexible working hours, so that women and men can combine work with the care of children, which would prevent child care from being a purely female responsibility.

7 The position of women in the migration process

The third important factor regarding the risk of women to become trafficked is their position in the migration process. This section analyses female migration in, to and from the La Strada countries. Emphasis is placed on the effects of migration for countries of origin, as well as on the lack of rights for female migrant workers and trafficked persons in countries of destination.

7.1 **Feminisation of migration**

Connected to the above-mentioned *feminisation of poverty* due to unequal opportunities, an increasing tendency can be discerned for women to migrate, also referred to as the *feminisation of migration*. Currently over half of the migrants in Europe are women.¹⁴⁷ Although women used to migrate as part of a family, nowadays they increasingly migrate alone, often leaving their children behind, in order to work in countries of destination.

This feminisation of migration is influenced by the fact that due to globalisation and increased wealth discrepancies, there is also an increased demand for cheap labour in destination countries, especially in female-designated sectors of work such as health care, domestic services and the sex industry. In the latter two sectors, exploitation and abuse are likely to occur, 'as the conditions in the informal economy – which is not covered by labour law and social protection, is outside the scope of labour inspection and where there is a lack of organisation and representation of workers – facilitate the incorporation of trafficked and undocumented migrant workers'.¹⁴⁸

¹⁴⁷ Laura Oss Casas and Jean-Pierre Garson, 'Migrant women and the labour market: diversity and challenges'. *OECD and European Commission Seminar. Brussels 26-27 September 2005* (2005).

¹⁴⁸ Lin Leam Lim, 'Trafficking, demand and the sex market', *International Symposium on Gender at the Heart of Globalization* (2007), 5.

This feminisation of migration shows that migration is a gender phenomenon, that is, men tend to be differently affected by migration policies than women. For example, (temporary) legal migration is often allowed for male-dominated sectors, such as construction and agriculture.¹⁴⁹ This is often not the case for female work sectors. This is particularly a problem in the domestic work sector: despite a growing demand for domestic workers in Western Europe, due to an increase in Western European women who are active in the labour market, no legal avenues have been opened to meet this increased demand.¹⁵⁰ A good example is the fact that in the Netherlands it is impossible for women from outside EU countries who want to work voluntarily in the sex industry or as domestic workers to obtain a work permit to work legally in these sectors. This lack of legal protection has placed them more at risk of exploitation, violence and abuse, as the case of Joy (see box 8) shows.

Box 8 **Joy – The Netherlands**

Joy comes from West Africa. She no longer has a family and for a few years she has been living with an acquaintance of her deceased mother. This acquaintance hands her over to an ‘uncle’ who is supposed to bring her to Europe to work as a domestic worker in a rich family’s household.

Once she arrives in the Netherlands, Joy finds she has to work long hours, she has no room to herself, looks after the children, cooks and does all the household work. At night, she is often woken up to work. She is beaten when the employer is not satisfied with her work. She is not allowed to leave the house without an escort. Joy is able to escape. After some time, she is referred to La Strada Netherlands by a shelter for homeless people; La Strada Netherlands arranges adequate shelter and social assistance. Joy eventually lodges a complaint against her former employer and receives a temporary residency permit. Criminal proceedings against the perpetrator are still in progress.

149 Patrick A. Tran & Gloria Moreno-Fontes, ‘Getting at the roots. Stopping exploitation for migrant workers by organised crimes’. *International symposium* (2002), 9.

150 Maria Miguel Sierra, ‘Discriminations experienced by migrant women in the EU – the specific case of undocumented migrant women as domestic workers’, *Empowering Migrant Women Living in The European Union. Report of a workshop organised by Solidar and the European’s Women Lobby in the framework of the Social Platform Conference ‘Building Social Policy on Fundamental Rights’, Brussels 12 October 2005.*

A related factor contributing to the risk of women migrants to become exploited are the ever more restrictive migration policies of industrialised countries over the last decades. By making it more difficult to enter or stay in a country legally, a situation is created in which smuggling and trafficking become a lucrative business, bringing the supply to where the demand is.

Restricting migration especially for women is clearly not the solution to abuse, but has the opposite effect, as ‘trafficking tends to increase and/or go further underground.’¹⁵¹ It is a clear form of discrimination of women and renders them more vulnerable to traffickers, who are able to exploit their irregular status. It also negates women’s efforts to make their own decisions and violates their human rights to move freely and work in the profession they choose, in just and favourable conditions.

Although migration can be a way of empowerment for women, it can also render women more at risk of violence, exploitation and abuse. As the Secretary General of the UN noted, ‘women are exposed to violence at every stage of the migration cycle. Such violence includes sexual and gender-based violence, trafficking, domestic and family violence, racist and xenophobic acts and abusive labour practice [...] Their status as migrants may curtail their ability to escape such violence or gain access to available information and support services.’¹⁵²

The lack of employment opportunities in countries of origin, as well as increased possibilities of travel and, at least for the countries that acceded to the EU, the creation of more legal avenues of migration, has led to an increase in labour migration. As the majority of the migrants migrate irregularly and move back and forth between countries, the magnitude of the phenomenon in Europe is difficult to assess. What is known, however, is that migration has a heavy impact on the countries of origin. At present, migration of especially highly-skilled persons is for instance a key problem for **Bulgaria**, as the most capable workers and intellectuals choose to emigrate, a phenomenon which is also referred to as ‘brain drain’.¹⁵³ Yet, the exodus of women due to the feminisation of migration has also led to a

151 Leam Lim, ‘Trafficking, demand and the sex market’, 9–10.

152 General Assembly, *Violence against women migrant workers. Report of the Secretary-General A/62/177* (2007), 3.

153 Correspondence with La Strada Bulgaria.

'care drain', depleting countries of origin such as **Poland** of their mothers and daughters who are not only necessary for economic sustainable development but also for 'the unpaid work of social reproduction [...], which is vital to social sustainability.'¹⁵⁴ Moreover, the children of labour migrants are also forced into vulnerable situations, as they are left behind by their parents. In **Ukraine**, this problem has become a topical issue.¹⁵⁵

7.2 **Lack of rights and social inclusion for migrants and trafficked persons**

Not only do women migrate independently to find a job and a better life abroad, they also migrate to join their partners in countries of destination. This form of migration puts women in a vulnerable position, as they are dependent on their partners for the right to stay in a country of destination. For example, in the **Netherlands**, women with a dependent residence permit – a permit given when a man or woman joins a partner in a country of destination and withdrawn when the couple divorces or separates – are particularly vulnerable, as the immigration rules make the woman dependent on the partner, who in fact 'controls the legality of her residence in the Netherlands and can choose whether to abuse this control or not.'¹⁵⁶

Another group which is particularly vulnerable to end up in situations of exploitation are female undocumented migrants. They are socially excluded in the countries of destination, as they generally have no access to social services, health care or the formal labour market, which is a violation of their basic rights. The fact that only Bosnia and Herzegovina has ratified the United Nations Convention on the Rights of All Migrant Workers and their Members of Family¹⁵⁷, does not imply that the other La Strada countries do not have an obligation to respect the rights of migrants. As the monitoring Committee of the ICCPR, the Human Rights Committee, has stated, all

154 Angela Coyle, 'Has Transition Left Women Behind? Polish Women's Labour Markets at 'Home' and 'Abroad', *Development & Transition* (Issue 8, 2007), 6-8, 7.

155 A research on problems of labour migrants conducted by La Strada Ukraine analysed the risks for such children and defined gaps and needs in organising the work with them; see La Strada Ukraine, *Problems of children of labour migrants: an analysis of the situation* (2006).

156 Human Rights Council, 16.

157 The United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, www.unhchr.ch/html/menu3/b/m_mwctoc.htm, entered into force on 1 July 2003.

rights in the Covenant 'must [...] be available to all individuals, regardless of nationality and statelessness, such as asylum seekers, refugees, migrant workers and other persons.'¹⁵⁸ In addition, the Council of Europe has indicated several minimum civil and political rights, as well as economic and social rights to which states should be held responsible with regard to undocumented migrants.¹⁵⁹ These rights include, inter alia, the right to fair wages and reasonable working conditions, social security and (emergency) health care.¹⁶⁰

Moreover, female undocumented workers, whether trafficked or not, experience severe discrimination in a variety of ways: as women, as foreigners and after working in the sex industry, whether voluntarily or not, as (former) sex workers. This last stigmatisation has also had a significant impact on their possibility to return home; it is often due to stigmatisation that trafficked persons fail to successfully reintegrate in their home country, which might lead to re-trafficking.

Not only the basic rights of female migrant workers are violated, there is also a lack of protection discernible regarding the rights of trafficked persons. Specific rights should be granted to trafficked persons, as their human rights have been seriously violated. Yet there is a genuine lack of protection for trafficked persons in current policies. In all La Strada countries, whether a trafficked person is given entitlements and assistance by the government is made conditional upon cooperation with the authorities. La Strada tries to provide assistance also to those that are unwilling or unable to cooperate with the law enforcement and therefore have limited access to assistance and support. La Strada often succeeds in doing this, but as it often depends on available funding and programmes as well as national legislation, the possibilities to provide assistance are often limited.

The fact that assistance is made conditional on cooperation with authorities indicates that the needs of law enforcement are prioritised over the needs of trafficked persons, with the effect that trafficked persons are often treated

¹⁵⁸ Human Rights Committee, *The Nature of the General Legal Obligation Imposed on State Parties*, *General Comment no.31*, 10, www.unhcr.ch/tbs/doc.nsf/o/58f5d4646e861359c1256ff600533f5f?Opendocument.

¹⁵⁹ Parliamentary Assembly of the Council of Europe, *Human Rights of Irregular Migrants. Resolution 1509* (2006).

¹⁶⁰ See also PICUM, *Undocumented Migrants Have Rights! An overview of the International Human Rights Framework* (2007).

merely as witnesses in trials, rather than persons whose human rights have been and are still violated. As cooperation with the authorities can also severely increase the risk of retaliation by the traffickers, for many victims, assisting in prosecution is not an option. Furthermore, trafficked persons are often not ‘physically, psychologically or emotionally equipped’ to enter this stressful procedure due to the severe traumatic experiences they have encountered.¹⁶¹ As the case of Elena (see box 9) shows, cooperation with the authorities and acting as a witness in court can indeed have very traumatic consequences, without the desired results.

Box 9 **Elena – Bulgaria**

At the time that Elena was lured to a provincial city, imprisoned and gang-raped, she lived in Sofia and was 20 years old. When her captors decided that she was sufficiently broken down, they began pressuring her to prostitute herself. Soon, Elena found out that they were preparing false documents, so they could take her abroad. In her desperation and desire to run away, she jumped from the second floor of the building in which she was locked up. The police found her helpless and in shock and took her to hospital, where she was diagnosed as suffering from post-traumatic stress disorder.

Elena was an energetic young woman with many interests and a good education. There was no violence or abuse in her family. Her life changed completely after the brutal violence and the attempt to lure her into prostitution. She decided that she would fight in order to help stop the traffickers from abusing other young women. She immediately filed a complaint with the police and took her rapists to court. This happened more than 8 years ago. The men cannot be prosecuted due to a ‘lack of evidence.’ Elena picked out the perpetrators from a series of line-ups, which was a real nightmare for her. She gave a detailed testimony, being the only witness and plaintiff. The case was reported widely in the press. The local police wrote off Elena’s case as a ‘busted’ trafficking ring. The real truth, however, is that none of the accused have been sentenced or punished to this day.

¹⁶¹ Mike Dottridge, ‘Introduction’, in: GAATW, *Collateral Damage. The Impact of Anti-Trafficking Measures on Human Rights around the World* (2007), 14.

Elena dedicated her whole life to the lawsuit, spending all her money on salaries of lawyers and other legal expenses. She suffers from perpetual anxiety.

What worries her most is that her memory has begun to erase the traumatic event. After 8 years, she remembers almost none of the concrete details of the horrors she lived through, yet she has to be a witness in court. What is more, if the case is not prosecuted soon, the legal time limit (statute of limitations) will run out. The battle will be irrevocably lost.

At the moment Elena receives support from La Strada Bulgaria and from the Helsinki Committee-Bulgaria.

The conditionality of cooperation with the authorities in prosecution also entails that the assistance and protection of the trafficked person depend on the efficiency of the police and prosecutors and on the ‘value’ of the evidence provided, as it is then decided whether a case can be filed.

Another important problem regarding legal safeguards for trafficked persons is corruption. Reportedly law enforcement authorities such as police and border guards are bribed in order to keep their eyes closed regarding trafficking cases. It is also not uncommon that the judiciary is bribed when a case has come to court. In **Ukraine** a high level of corruption is, for instance, said to severely hinder objective judgements of the judiciary.¹⁶²

The pressure on trafficked persons to cooperate with the authorities in order to be provided with protection is clearly incompatible with a human rights approach, which places human rights at the centre of all measures taken. ‘The thinking behind such conditionality is hard to understand from the point of view of either human rights or the administration of justice, for it appears to be completely at odds with all the other principles which underlie the ways that victims of crime and abuse are supposed to be treated, notably those set out in the UN Declaration of Basic Principles of

¹⁶² Kharhiv Human Rights Protection Group, *Human rights in Ukraine – 2006. Human Rights Organizations’ Report, Chapter XXI. The main human rights violations linked with human trafficking*, <http://khp.org.ua/en/index.php?id=1192258995>.

Justice for Victims of Crime and Abuse of Power (1985), which states that, 'victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means' (Article 14).¹⁶³

Even when trafficked persons choose to cooperate, their human rights are all too often violated. To illustrate, it is not uncommon that trafficked persons are punished for violating immigration law, which exacerbates their traumatisation and is again a clear violation of their rights. The case studies of Tatiana and Mela (see box 10 and 11) are indicative of this problem.

Box 10 **Tatiana – Czech Republic**

Tatiana's traffickers brought her to the Czech Republic using false travel documents. Under Czech legislation, using false travel documents constitutes a criminal offence, for which Tatiana was charged and convicted. Later she was provided assistance by La Strada Czech Republic. She cooperated with law enforcement and contributed significantly to capturing the perpetrators. Based on this cooperation she should have been entitled to permanent residence. However, since one of the requirements for granting permanent residence is a clean criminal record, Tatiana did not qualify. The only way to legalise her residence permit was to apply for international protection (asylum), which has been granted. However, using this type of residence can bring further difficulties. Asylum seekers cannot work for a full year after filing their application, they cannot be in contact with their home country's embassy and they are not allowed to return to their country of origin. This illustrates that imposing punishments on trafficked persons for offences they were compelled to commit can have far-reaching consequences, in addition to the unacceptable fact that a victim of a crime is being punished.

However, after three years of dealing with various obstacles and the aftermath of her experiences, and after support by La Strada Czech Republic, Tatiana now lives a contented life in a former Soviet Union country, where she moved to join her partner.

163 Dottridge, 'Introduction', 14.

Box 11 **Mela – Poland**

Mela grew up in a small town where she couldn't find work after graduating. When she met Pawel, a Pole with a German passport, it seemed a real opportunity. He suggested they build a future together by going to Germany, where she could work as a waitress. Mela says she trusted him because he was very down-to-earth. Yet, soon after her arrival, it became apparent that she would not be working as a waitress, but that she would have to prostitute herself. After he severely beat her when discovering she was pregnant she escaped to her friends – his friends in fact – a Polish couple who were very sympathetic. Pawel found her after two days, apologised, and begged her to return to him. However, Mela reported him to the police. The first time she reported him, the police did not act, but after the second attempt, one police officer came down to the bar where she worked. She decided to testify, but was then deported and was banned from entering Germany. Pawel was charged with soliciting sexual services and was awaiting trial. Mela returned home, where she had a very hard time as her parents were angry and ashamed.

She later received a court notice to attend the trial in Germany, followed by a phone call from an interpreter, and Mela decided to go. She had to borrow some money for a bus ticket, but the interpreter assured her that the court would pay everything back. She also said that Mela could seek compensation. She had no money left, but she knew that once she got there she would be paid back the cost of travel as well as her per diem allowance, so she borrowed the money for the ticket. However, having checked her passport number, German border guards told her that she was banned from entering Germany. Showing a letter from the court didn't help. It was late afternoon and they told her to go back home and sort the papers out from there. Mela broke down and didn't know what to do. Polish border guards arranged a lift for her to a large city near her home town. The interpreter phoned again later, informing her they would not reimburse the costs she had incurred because she had not appeared in court. In her absence, Pawel received only a minimum suspended sentence.

Trafficked persons are often not informed about their rights and how to access them. All too often they are detained in closed shelters for their own 'protection', again violating their right to freedom of movement and limiting their own choice of what to do with their lives. Temporary residence permits are provided but are invalid upon the closure of the criminal case. Despite their possession of these permits, they are often not entitled to work, as is the case in **Poland**, thus becoming dependent on social benefits, which again does not increase their ability to take matters into their own hands. As NGOs in Poland reported to the CEDAW Committee: 'Even if short-term assistance and protection are offered, long-term solutions are lacking, such as access to the labour market or long-term residence permits if a trafficked person cannot or does not want to return to her or his home country.'¹⁶⁴

Those who do not dare to cooperate or who are not identified as being trafficked are subsequently treated as undocumented migrants without rights. They often end up being detained and placed in situations where they face grave human rights abuses. Returning trafficked persons to countries of origin without a comprehensive risk-assessment of the individual safety situation can greatly increase the risk of re-trafficking. This is not an uncommon phenomenon: it has for instance been found that of trafficked persons who have been assisted in South-Eastern Europe, between 3% and 34% in 2003-2004 have been re-trafficked.¹⁶⁵

The stories of Mela and Tatiana in particular show that human rights should always be at the core of any anti-trafficking measure, as otherwise, human rights are violated. Anti-trafficking measures which are not based on a human rights approach have proven to negatively affect the human rights of the targeted group. For example, measures to prevent migration, especially of young women, are discriminatory in nature and a clear violation of their right to freedom of movement.

Anti-trafficking measures do, however, not only impact on the rights of (potentially) trafficked persons; they can also negatively affect the rights of others, causing more harm than good. It is in fact in the name of anti-

¹⁶⁴ Poland shadow report, 37.

¹⁶⁵ Surtees, 14.

trafficking measures that the human rights of migrant workers and sex workers have been grossly breached.¹⁶⁶

An improvement in the situation of trafficked persons could be effected by the ratification and consequent implementation of the Convention on Action against Trafficking in Human Beings of the Council of Europe, as this Convention contains provisions guaranteeing the rights of trafficked persons by granting effective protection, such as the possibility to give residence permits to victims not only on the basis of cooperation with the law enforcement authorities, but also on humanitarian grounds, rather than being exclusively an instrument for combating organised crime. This Convention came into force on 1 February 2008. Bosnia and Herzegovina, Bulgaria and Moldova are among the fourteen European states that have ratified the Convention before it entered into force.

Conclusion

Constituting more than half of all migrants in today's world, women are increasingly migrating alone in search for work, a situation exacerbated by globalisation processes. On the one hand, globalisation had led to wider discrepancies in wealth between countries, and on the other hand it has led to a higher demand for labour in female-designated sectors of work. These sectors, and in particularly domestic services and the sex industry, are characterised by a lack of protection, as they are unregulated. Moreover, in most countries it is impossible for migrant women to work in these and other sectors in a legal manner, thus increasing their risk of becoming victims of violence, abuse and exploitation, violating their basic human rights.

Although human rights do not apply only to citizens but should also apply to undocumented migrant workers, these are not adhered to by states, leading to social exclusion and a lack of effective remedies for violations suffered. This is especially the case for trafficked persons, whose rights are made conditional upon their cooperation with law enforcement bodies. Trafficked persons are often treated as undocumented migrants and

¹⁶⁶ See for examples of anti-trafficking measures which may violate human rights: GAATW, *Collateral Damage. The Impact of Anti-Trafficking Measures on Human Rights around the World* (2007).

sanctioned for violating immigration laws and consequently deported. Yet lack of protection for trafficked persons leads to further human rights violations and severely increases the unacceptable risk of re-trafficking.

Recommendations for improving the protection of women's rights in the migration process

- The risk of trafficking diminishes if legal migration channels and opportunities for regularisation of migrant workers are created, especially for female-designated sectors such as domestic services, in the countries of destination. This will provide rights and entitlements to female migrants and reduce the risk of exploitation.
- States should adopt immigration policies which are based on a human rights approach and not on demographic or economic needs. These policies should also be gender-sensitive and aimed at empowering women migrants, instead of placing them in vulnerable situations.
- States and private sectors must assume responsibility and take action to end exploitative labour conditions. The protection of (migrant) workers in those sectors or activities where forced labour or services are likely to occur must be improved. People with informal and unregulated work should be protected by labour laws to ensure that all workers enjoy the same labour rights. For example, migrant workers should have the right to form or join associations of their own as a way to defend their labour and other rights.
- Protection of and support for trafficked persons should not be made conditional upon cooperation with law enforcement bodies, but based on their basic human rights. Trafficked persons should be provided with adequate facilities in accordance with international standards.
- The return of trafficked persons to the countries of origin should be safe and voluntary. In any case, return should not take place before an individual risks assessment based on the particular circumstances in the country of origin has been carried out.
- Notwithstanding the fact that all undocumented migrants are entitled to the protection of basic human rights as outlined in international human rights treaties, all La Strada countries which have not yet done so must ratify and implement the United Nations International Convention on Protection of Rights of All Migrant Workers and Their Families in order to improve the protection of the rights of migrants and their families.

- All La Strada countries which have not yet done so must ratify the Council of Europe Convention on Action against Trafficking in Human Beings.
- In countries of origin, public campaigns should be conducted aimed at developing safe migration for potential migrants, taking into account the peculiarities of different regions of countries where people migrate from, and the working conditions of the countries of destination. Such campaigns should increase the awareness of potential migrants as to their rights.
- Official employment service centres should be put in place in countries of origin where migrants can receive relevant information about life and work abroad, about human rights protection and fundamental freedoms guaranteed under international treaties and national laws, about ways to protect their rights in a foreign country and places to apply for assistance.
- The staff of embassies and consulates in the main destination countries should be equipped with trained migration officers in order to ensure timely and adequate assistance and the protection of migrant workers and trafficked persons abroad.

8 Conclusion

This report has shown that the violation of women's rights is both a cause and a consequence of trafficking in women. Trafficking in human beings is a severe human rights violation, such as the right to liberty and security, the right to freedom of movement, the right to do work one freely chooses and the right to just and favourable conditions of work.

Trafficking in human beings is also frequently a consequence of human rights infringements, as many trafficked persons have experienced human rights abuses prior to being trafficked. Trafficking in women can be a consequence of the violation of women's rights, as the root causes of trafficking are linked to gender inequality, which is in turn the result of the breach of women's rights. This is especially visible in three specific but interrelated aspects of women's lives, namely the social position of women, their position in the labour market and in the migration process.

Regarding their social position, this report has focused on two aspects relevant to trafficking which show that gender inequality is persistent. For instance, it is evident that patriarchal values and norms are widespread, reinforcing the idea that women are in a subordinate position to men. In most of the La Strada countries which have undergone a transition from centrally planned economies to market economies, together with political transformations, an increase in patriarchal values has been discerned. Due to its links with the communist past, gender equality has negative connotations. Gender-role stereotypes which allocate specific roles and responsibilities to women have become more prevalent. Women are forced from the public into the private sphere of life, which influences their position in the family, the labour market and the migration process. It is this view of women which perpetuates the notion that they are objects rather than subjects.

The unequal power relationship between men and women is reflected in the fact that domestic violence is pervasive, which is both a result of gender inequality as well as a tool to reinforce it. Although men can also be

subjected to domestic violence, the majority of the victims are women and children. Currently not enough mechanisms are in place in the La Strada countries to effectively tackle domestic violence. This is however of the utmost importance, as the experience of La Strada shows that there is a high incidence of domestic violence among trafficked persons, indicating that this violence is one of the contributory risk factors to trafficking. By preventing this form of violence and providing effective protection and assistance to victims and witnesses of violence, the risk of becoming trafficked can be reduced. Although more research is necessary on the link between domestic violence and trafficking in human beings, the prevention of and protection from domestic violence is imperative, and should be seen as indirectly combating trafficking in human beings.

Regarding their position in the labour market, it is currently the situation that in all La Strada countries women are faced with unequal opportunities. In the majority of the La Strada countries unemployment among women is higher than among men. When in work, women tend to be employed in the unregulated informal market or in female designated sectors of work where the wages are in general lower than in other sectors, resulting in the fact that on average women have lower incomes than men. The high unemployment rates as well as the lower wages which women in general receive lead to a situation which is referred to as the feminisation of poverty. Moreover, women are also underrepresented in high managerial and political positions, a situation which hampers the possibility to implement effective policies and programs for the advancement of women.

The social position of women in the majority of the La Strada countries is thus partly characterised by unequal power relations between men and women and often a high prevalence of domestic violence. This is again related to the economic position, which is in turn affected by the lack of equal opportunities in the labour market and the corresponding feminisation of poverty. An important strategy for preventing violence against women, including trafficking as well as domestic violence, is therefore the creation of economic independence for women. This is an empowering strategy which provides women with the tools to take their lives into their own hands.

The social and economic positions of women in the La Strada countries are also related to the position of women in the migration process. The high

incidence of domestic violence, lack of opportunity in the labour market and the feminisation of poverty have forced women to try their luck abroad. Women are more ready to take on promising job offers in other countries, which often leads to trafficking. The lack of legal options for labour migration, as well as the lack of legal protection for (undocumented) migrants consequently renders female migrants especially vulnerable to trafficking.

This vulnerability is again exacerbated by the position of women in the migration process. Constituting more than half of all migrants in today's world, women are increasingly migrating alone in search of work, a process induced by globalisation. On the one hand, this had led to wider discrepancies in wealth between countries, and on the other, globalisation has led to a higher demand for labour in female-designated sectors of work such as domestic services. These sectors are characterised by a lack of protection, as they are unregulated. Moreover, for migrant women it is in most countries impossible to work legally, so increasing the risk of becoming victims of violence, abuse and exploitation, violating their basic human rights.

Human rights also apply to (undocumented) migrant workers, yet these are in general not adhered to by states, leading to social exclusion and a lack of effective remedies for violations suffered. This is particularly unacceptable, as in the case of trafficked persons, whose rights for protection and assistance are made conditional upon their cooperation with law enforcement bodies in all La Strada countries, constituting again a violation of their rights.

As long as women are not living their lives free from the threat of violence and discrimination, and as long as they do not have equal opportunities in the labour market, they will choose to work abroad and labour migration will continue. As long as legal migration is impossible or severely restricted, migrant workers are forced to take risks concerning their safety and practically driven into the arms of the criminal networks that control the illegal routes into the countries of destination. As long as countries of destination are not willing to give trafficked persons, as well as (undocumented) migrants the rights they are entitled to according to international standards, exploitation and abuse will continue.

The findings of this report impel La Strada to call on governments to take women's rights seriously in order to stop trafficking. As gender inequality

is one of the main factors contributing to trafficking, we also urge governments to respect, protect and promote human rights and especially those of women, irrespective of their status, in order to prevent and combat trafficking in human beings effectively. As these violations are also a consequence of trafficking and can seriously infringe upon the rights of others, La Strada appeals to all governments to place human rights at the core of all policies and specifically anti-trafficking measures. Governments and other relevant agencies should therefore integrate the standards and principles of the international human rights system into their legislation, policies and programmes.

In addition, in order to eliminate the widespread stereotype attitudes resulting from patriarchal norms and values, La Strada urges governments to launch public awareness-raising campaigns for equality between men and women, targeted towards men as well as women. Such public awareness campaigns should be paralleled by the implementation of effective legal frameworks. In order to tackle violence against women La Strada calls on governments to ensure that legal frameworks are implemented sanctioning all forms of violence against women, specifically domestic violence, which ensure the effective prosecution and punishment of offenders.

To increase the availability of equal opportunities in the labour market, La Strada urges governments to incorporate gender equality and gender mainstreaming in all (labour) legislation. The sanctioning of discrimination in the labour market, as well as sexual harassment, should be included in this legislation. Successful implementation of such legislation can only be achieved through increased political will accompanied by the allocation of sufficient financial resources.

La Strada moreover appeals to governments to adopt immigration policies based on human rights, and not only on demographic or economic needs. These policies should also be gender-sensitive and aimed at empowering women migrants, instead of placing them in vulnerable situations. It is also imperative that governments and private sectors take responsibility and action to end exploitative labour conditions. The protection of (migrant) workers' rights in those sectors or activities where forced labour or services are likely to occur must be improved. People working within informal and unregulated work should be protected by labour laws to ensure that all workers enjoy the same labour rights.

Regarding the rights of trafficked persons, it is essential that protection and support for trafficked persons is no longer made conditional upon cooperation with law enforcement bodies, but based on their human rights. Trafficked persons should have access to adequate remedies in accordance with international standards, such as assistance and support, protection, legal aid, and compensation for breaches of their rights and every effort should be made to ensure these rights.

It is by respecting, protecting and promoting the rights of women that sustainable steps can be made to ensure that trafficking in women can be effectively put to a halt. It is time that women should not only be given their rights on paper but also in practice, and that the rights of women are finally taken seriously.

Annexes

Annex 1: Human rights documents relevant to trafficking¹⁶⁷

United Nations:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on Elimination of Discrimination Against Women (CEDAW) and its Optional Protocol
- Convention on Elimination of All Forms of Racial Discrimination (CERD)
- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT);
- Convention on the Rights of the Child (CRC).
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)
- ILO Convention concerning Forced or Compulsory Labour 1930 (No.29)
- ILO Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value 1951 (No. 100)
- ILO Convention concerning the Abolition of Forced Labour 1957 (No 105)
- ILO Convention concerning Discrimination in Respect of Employment and Occupation (1958 (No. 111)
- ILO Convention concerning Minimum Age for Admission to Employment 1973 (no 138)
- ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour 1999 (No. 182)

Council of Europe:

- European Convention on Human Rights (ECHR)
- Council of Europe Convention on Action against Trafficking in Human Beings (CoE CAT)

¹⁶⁷ See GAATW, *Human Rights and Trafficking in Persons. A Handbook* (1999).

Annex 2

Table 5: Human rights treaties ratified or acceded to (■) or signed (□) by La Strada countries¹⁶⁸

	<i>Belarus</i>	<i>Bosnia–Herzegovina</i>	<i>Bulgaria</i>	<i>Czech Republic</i>	<i>The Netherlands</i>	<i>Macedonia</i>	<i>Moldova</i>	<i>Poland</i>	<i>Ukraine</i>
UN									
Palermo Protocol	■	■	■	–	■	■	■	■	■
CEDAW ¹⁷¹	■	■	■	■	■	■	■	■	■
ICCPR	■	■	■	■	■	■	■	■	■
ICESCR	■	■	■	■	■	■	■	■	■
CERD	■	■	■	■	■	■	■	■	■
CAT	■	■	■	■	■	■	■	■	■
CRC	■	■	■	■	■	■	■	■	■
ICRMW	–	■	–	–	–	–	–	–	–
CoE									
CoE CAT	–	■	■	–	□	□	■	□	□
ECHR	–	■	■	■	■	■	■	■	■

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inhuman treatment - objectification - sexual violence - fear - abuse - exploitation - physical
traumatisation - dignity - safety - recovery - legal protection - home - integrity - - -
human trafficking - deceit - migration - neglect - poverty - patriarchy - lack of equal opportunities
Domestic violence -
compensation - economic independence - freedom - choice

La Strada International
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