

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



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.¹

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

¹ 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.'²

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.

² 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.