

NGOs support States to implement a truly human rights based approach to trafficking

NGO statement on International Human Rights Day – 10 December 2010

Today, on International Human Rights Day, the undersigned human rights NGOs working to prevent trafficking and to defend the human rights of trafficked persons, migrants, sex workers and other affected groups, call upon States to truly implement a human rights approach.

Since the adoption of the UN Protocol in 2000, efforts to stop trafficking have mushroomed around the world. However, while the intentions may be good, in practice in many cases the effects have been less positive. Whereas States have given priority to the prosecution and punishment of traffickers, measures have largely failed to safeguard the human rights of people who have been trafficked. Many government agencies doubtlessly assume that the two objectives – enforcing the law and upholding human rights – amount to the same thing. However, in the case of human trafficking there is now substantial evidence that they are not. In many cases trafficked persons are detained and deported without protection against their traffickers and without proper compensation for the damage they suffered. Sometimes trafficked persons are, in the name of protection or rehabilitation, confined in public or private shelters under conditions no different from detention. As noted in this year's TIP report from the US Department of State: the three P's of prevention, protection and prosecution seem to have give way to the three D's of detention, deportation and disempowerment.

Many anti-trafficking efforts even undermine or negatively affect the human rights of the people who they are supposed to benefit or of other groups that are intentionally or unintentionally affected by these efforts, like migrants or sex workers. This happens, for example, when prevention of trafficking is used to justify measures that limit the freedom of movement of women, or when trafficking and sex work are conflated leading to discriminatory and repressive measures against sex workers. One example is the so-called raid & rescue operations, causing the arbitrary arrest and detention of sex workers and the deportation of migrant sex workers, including trafficked persons. Combating trafficking can never be a justification for human rights violations.

Rights-based approach to trafficking

NGOs, governments and international organisations increasingly recognise the need for a human rights based approach to trafficking in persons. Although the concept has been used widely, there hasn't been a proper discussion about what a human rights approach to trafficking actually entails. Often it is understood as being the same as a victim-centred approach, implying that those who are identified as trafficked persons have the right to effective remedies, including protection, assistance and compensation. While this is an important element of a human rights based approach, there is more to it. A human rights based approach integrates core human rights principles, such as participation, non-discrimination and empowerment, and opposes anti-trafficking measures that may harm the human rights of trafficked persons or other affected groups, for example by discriminatory migration policies, closed shelters or compulsory cooperation with the police. Human rights should be at the heart of any anti-trafficking strategy and the norms, standards and principles of the international human rights system are to be integrated into all legislation, policies, programs and processes.

In short, a human rights approach implies that anti-trafficking measures should:

- aim to change the conditions that give rise to trafficking,
- stop the exploitation and investigate, prosecute and punish the perpetrators,
- provide adequate remedies to trafficked persons.

Moreover, anti-trafficking policies should:

- ensure participation of the most affected in their development, implementation and evaluation and improve their ability to determine policies that govern their lives
- comply with existing obligations of states under international human rights laws as set forth in the major human rights treaties and other standard setting instruments
- not undermine or otherwise negatively impact human rights (“do no harm”)
- not be used to directly or indirectly discriminate against women, migrants, sex workers or other groups.

The RightT guide, a tool to assess the human rights impact of anti-trafficking policies

For many years now, anti-trafficking, sex workers rights and migrants rights organisations have argued that anti-trafficking policies can do harm and have collected evidence to prove this. In 2007 the Global Alliance against Trafficking in Women (GAATW) published the report “Collateral Damage”, which gives a clear but also disturbing picture on how anti-trafficking policies, including repressive migration policies, negatively affect the rights of trafficked persons and other groups affected by these policies.

To support advocacy for more effective, rights-based policies against trafficking, the undersigned NGOs developed a manual to assess the human rights impact of anti-trafficking policies. This tool, The RightT guide¹, was launched on 9 December 2010. NGOs can use The RightT guide to develop evidence-based recommendations to lobby their governments for better policies that prevent trafficking and respect human rights.

Recommendations

In order to truly implement a human rights based approach to trafficking, States should:

- Avoid repressive, discriminatory and disproportional anti-trafficking measures that do not comply with existing human rights obligations of the State;
- Take action to prevent trafficked persons from suffering further rights infringements;
- Assess the impact of their anti-trafficking policies on the human rights of all persons affected;
- Monitor and report about the effectiveness of anti-trafficking policies;
- Support civil society organisations to conduct human rights impact assessments of anti-trafficking policies.

Signatories:

- La Strada International
- Aim for human rights
- La Strada Czech Republic
- SRTV
- Rutgers Nisso Groep
- Humanitas Prostitutie Maatschappelijk Werk
- Center for Legal and Civic Initiatives
- Defence for Children International- Italy

¹ For more information or to download The RightT guide: www.humanrightsimpact.org/trafficking