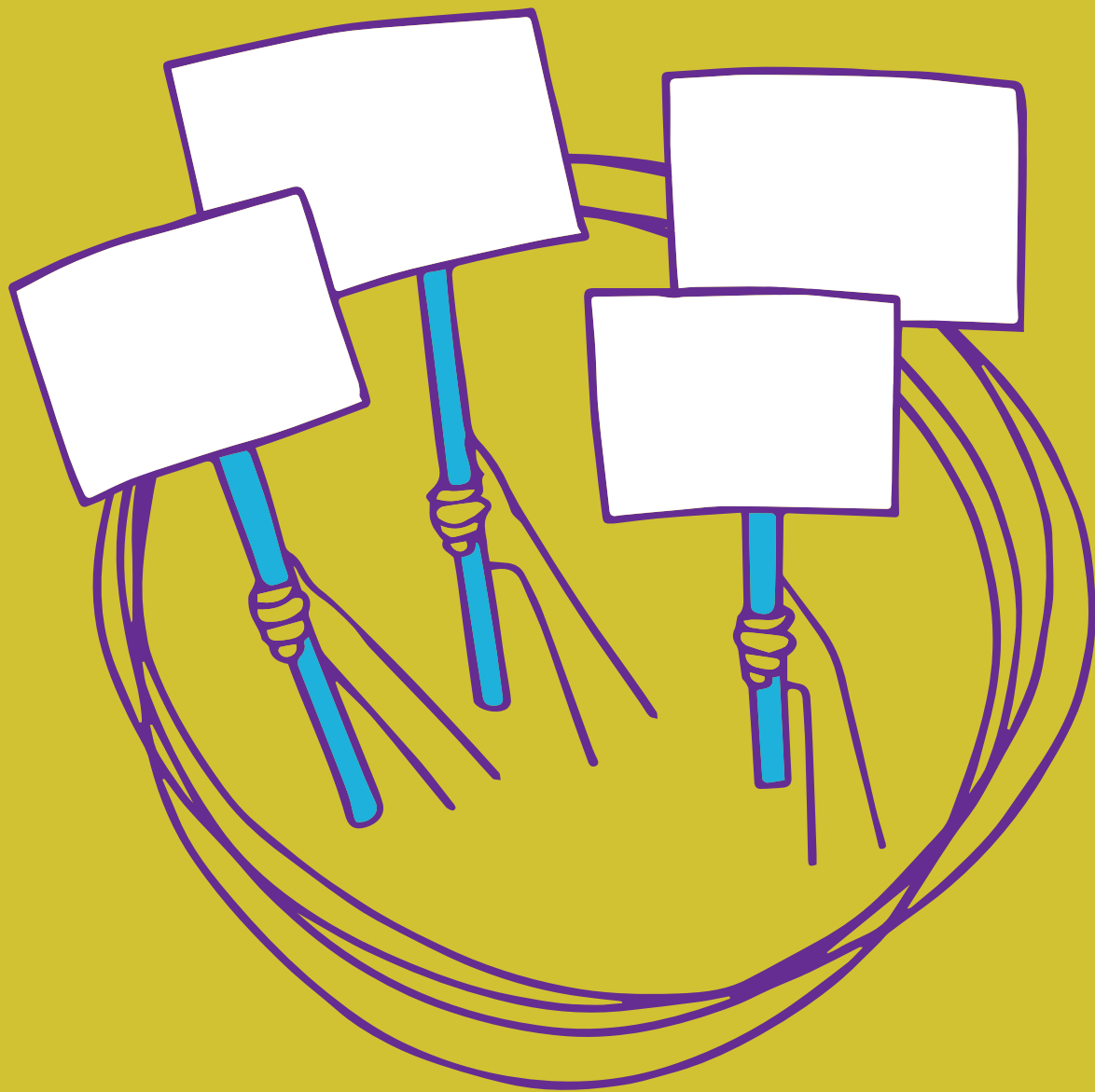


**Feminist
Approaches
to Counter
Trafficking:
A Manifesto.**



“You don’t lose your rights when you leave a country”

— Maina Kiai, former UN Special Rapporteur
on freedom of association.

This Manifesto has been co-created by 30 representatives of the labour rights, migrant rights, sex workers’ rights and women’s rights movements who participated at a Global Convening on Trafficking in Women in the Context of Global Migration, in December 2019 in Nairobi, Kenya. It is based upon and builds on the extensive feminist analysis and writing done by activists and scholars who have long critiqued the globally dominant narratives on the issue of trafficking in women, recognising that they stem from sexist, racist, heteronormative, patriarchal and neo-liberal conceptions of women, labour and migration. This manifesto seeks to challenge these intersecting systems of oppression by setting out a visionary framework for inter-movement solidarity building and law and policy advocacy for the global labour rights, migrant rights, sex workers’ rights and women’s rights movements.

Principles

The Principles set out in this part underpin all the concerns raised and recommendations made in the following sections:

1 Migration is a human right and applies to everyone on an equal basis.

2 All forms of work are dignified and decent work and labour rights of all workers must be protected.

3 The individual's right to bodily autonomy, dignity, self-determination and freedom of movement are inviolable and central in relation to anti-trafficking measures.

4 The agency of women in all their diversity, including sex workers, trans and gender non-conforming persons, must be fully respected in all circumstances, including in relation to the implementation of laws, policies and programmes on trafficking. Protectionist approaches that devalue women must be rejected.

5 The voices of women in all their diversity, including sex workers, trans and gender non-conforming persons, must be heard in all standard-setting processes concerning trafficking.

6 Taking cognisance of the fact that trafficking and labour standards go hand in hand, addressing trafficking from a labour perspective and improvement of labour standards is the key to eradicating trafficking.

7 Universal, gender-responsive and quality public services are critical to addressing vulnerability to unsafe migration and trafficking.

8

Sex workers' critical contribution in identifying trafficking and exploitation must be recognised. Sex worker-led organisations have developed comprehensive, community-led systems to monitor and combat trafficking and uphold sex workers' labour rights, working in partnership with police that must be promoted.¹

9

Qualitative data collected on trafficking must be objective and prioritise the lived experiences of women, migrants, sex workers, trafficked persons and other marginalised groups.

10

Legal, policy or programmatic responses to trafficking as well as their implementation must be based on evidence that is unbiased, rigorous, based on ethical research and data collection, and is both quantitative and qualitative.

11

Legal, policy or programmatic responses to trafficking must ensure accountability of states, corporations and individuals.

12

Legal, policy or programmatic responses to trafficking must be dynamic and respond to the needs of each individual rapidly and flexibly.

13

Legal, policy or programmatic responses to trafficking must center a human rights-based approach and the principles of social justice.

14

All persons including trafficked persons and migrants must enjoy the right to equal protection of the law at home and abroad.

15

Inter-movement dialogue and action between the labour rights, migrants' rights, sex workers' rights and women's rights movements is key to ensuring a cohesive and robust civil society response to the issue of trafficking.

1 Many anti-trafficking approaches have a negative effect on the identification of victims of trafficking, deterring both sex workers and their clients who are well-positioned to report exploitation and trafficking from doing so. The relationship between sex workers, undocumented migrants and the agencies (including law enforcement) working on anti-trafficking initiatives needs to be changed from an adversarial one to one of partnership and cooperation.

Concerns + recommendations

The Manifesto sets out concerns and recommendations addressing four key areas in relation to trafficking.

- I. Understanding trafficking as an issue at the intersections of gender, labour, migration and development
- II. Current law and policy framework on trafficking
- III. Data and evidence
- IV. Prevention of trafficking and ensuring victim protection and access to justice in the context of trafficking

I Understanding trafficking as an issue at the intersections of gender, labour, migration and development

Concerns

- The sharp rise in the public and political influence of anti-rights actors² worldwide has resulted in reinforcing racism, xenophobia and anti-migrant attitudes and violence. At the same time, global economic inequality fostered by neo-liberal economics is at an all-time high. In this situation, labour exploitation and trafficking are not anomalies but the logical outcome of a system thriving on political, social and economic inequality.
- There is a crucial gender aspect to this situation, as women not only bear the brunt of these economic injustices but are also subjected to paternalistic and protectionist attitudes in society. This systematic devaluation of the status of women renders them vulnerable to a host of human rights violations including trafficking. Growing evidence shows the adverse impact of migration deterrence and control measures on migrants, including migrant sex workers.

2 The Manifesto employs the term 'anti-rights actors' to signify state and non-state actors who are manipulating human rights language, particularly the terms 'universality' and 'fundamental', to apply only to certain human rights, often attempting to cast sexual and reproductive rights or the rights related to sexual orientation and gender identity as optional. This definition is based on the report of the Special Rapporteur in the field of cultural rights on Universality, cultural diversity and cultural rights, A/73/227, July 2018.

- In addition to gender stereotypes, negative stereotypes that devalue and stigmatise certain forms of work contribute to creating precarious labour conditions resulting in trafficking.
- Evolutions in the world of work brought on by technological innovations that have made precarious labour the norm are neither well understood nor adequately addressed by States.
- Anti-trafficking measures contribute to creating an increasingly hostile environment for sex workers, migrants and refugees. They not only result in human rights abuses; they fail to address structural barriers (e.g. lack of labour protections, lack of access to justice and social protection) that create vulnerability. Additionally, the current overemphasis on carceral responses to trafficking often results in the punishment of trafficked persons themselves.
- The conflation of sex work with exploitation, and the conflation of exploitative working conditions in the sex industry with trafficking, leads to harmful legislation that alienates sex workers from material resources and prevents them from organising for better work conditions or asserting their labour rights.
- The conflation of trafficking and sex work is counter-productive and harmful to both sex workers and trafficked persons. The conflation of trafficking and sex work, and trafficking and migration produce anti-trafficking measures that further stigmatise, criminalise and isolate sex workers and migrants. The disproportionate emphasis on trafficking in the sex industry diverts vital resources and attention from other industries where trafficking occurs (e.g. domestic work, agriculture, fishing and factories) towards initiatives aimed primarily at suppressing sex work itself, rather than focusing on addressing trafficking in the sex industry.
- There is a lack of understanding of the links between the gender wage gap, the non-recognition and under-valuation of unpaid care and domestic work, and higher risks of exploitation for women, including exploitation linked to human trafficking.

Understanding trafficking as an issue at the intersections of gender, labour, migration and development

Recommendations



1. Approaches to migration should not aim to deter migration but protect the rights of migrants.



2. Address human trafficking not only through criminal justice and law enforcement measures but also through social justice measures, such as reducing discrimination and inequality, ensuring decent work for all people, and guaranteeing universal social protections.



3. End economic austerity measures that create vulnerability to unsafe migration and trafficking.



4. Approach sex work from a labour perspective. Sex work should be recognised as work and social protection systems should be expanded to cover sex workers. Sex workers should be afforded their labour rights in line with the four components of decent work as defined by ILO: employment; social protection; workers' rights; and social dialogue.



5. Close the gender wage gap; implement measures to value, reduce and redistribute unpaid care and domestic work.

II Current law and policy framework on trafficking

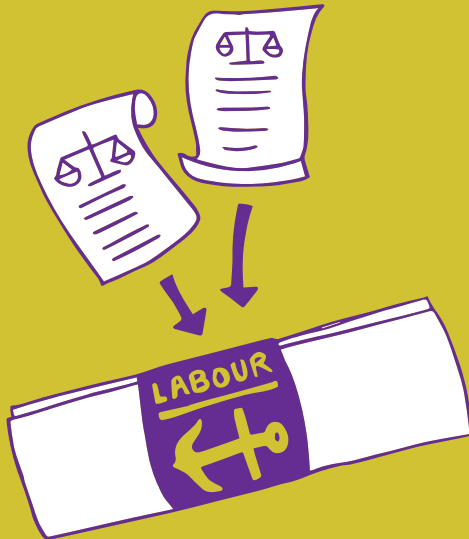
Concerns

- Laws and legal systems replicate the power imbalances inherent in society and thus underprivilege women, migrants, ethnic minorities and other marginalised groups. Consequently, anti-trafficking measures do not respect women's agency and autonomy. Rather than centering human rights and remedies, laws and legal systems in the context of trafficking emphasise repressive measures that deprive trafficked persons of rights protection, including their right to access justice.
- Current law and policy frameworks on trafficking do not address the structural factors driving trafficking. As a result, they fall short of providing a systemic response that ensures State and corporate accountability in the context of trafficking.
- The non-recognition of specific labour sectors including domestic work and sex work under labour laws, as well as the poor legal regulation of the informal labour sector in general, enables labour exploitation and trafficking.
- Criminal laws targeting individuals based on their migration status and/or their labour sector leads to structural discrimination, including increasing their vulnerability to trafficking.

- Criminalisation of migration not only increases an individual's risk of rights violations, including trafficking, but also reinforces discriminatory, xenophobic and racist attitudes towards and actions against migrants.
- The criminalisation of some or all aspects of sex work promotes sex workers' marginalisation, creating structural barriers that increase their vulnerability to exploitative work conditions. The full decriminalisation of sex work, including sex workers, their clients, and third parties, and the repeal of 'end demand' laws, is a necessary step to ensure that sex workers can claim their labour rights and to promote (migrant) sex workers' economic empowerment and social inclusion.
- The overemphasis on criminal laws in the context of trafficking also results in creating siloes in institutional responses within the state, which often manifests as a blind spot in relation to recognising and responding to trafficking cases outside the sex work sector.
- Often immigration rules and anti-trafficking initiatives work in isolation rather than in tandem. Those who identify as victims of trafficking are often deported, rather than supported. Future immigration status may be contingent on testifying against traffickers. The system stigmatises migrant consensual sex workers, for example, requiring them to identify as a victim in an attempt to avoid deportation. Some states still prosecute victims of trafficking for criminal activity (e.g. those exploited on cannabis farms).

Current law and policy framework on trafficking

Recommendations



1. Reform law, policy and programmatic responses to trafficking to anchor them in labour laws and framework, enabling a structural response to trafficking as an issue of labour exploitation.
2. Ensure that victims of trafficking do not face retaliatory measures and are not prosecuted for crimes in relation to trafficking.



3. Fully decriminalise sex work - including sex workers, clients and third parties - and repeal 'end demand' laws.



4. Remove laws that impose administrative or criminal penalties for irregular entry or stay in a country.



5. Enable free movement of individuals across international borders.

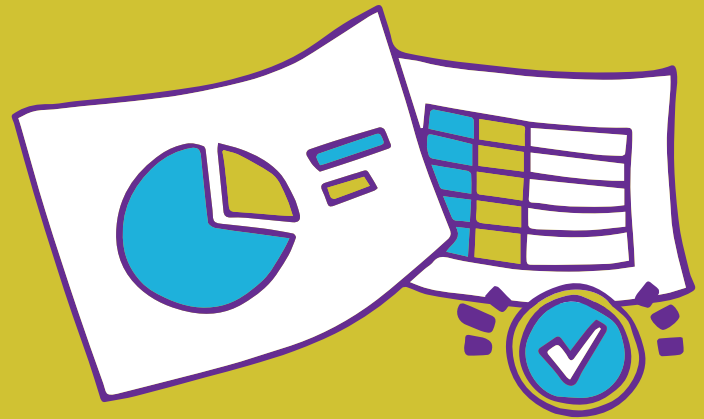
III Data and evidence

Concerns

- Research on human trafficking is often biased, without clear or rigorous methodology. Furthermore, it may be used for self-serving purposes, such as to secure funding or to raise individual or institutional profile.
- Research and data often conflate sex workers and at-risk groups with potential victims and actual victims of trafficking.
- Qualitative data often prioritises sensationalistic, extreme stories of suffering at the expense of less 'sexy' ones.
- Data on numbers of trafficked persons is often collected by a single agency, e.g. police, missing people identified by NGOs, trade unions and others, resulting in an incomplete picture of the trafficking situation in a country. Even where multi-agency data collection systems exist, this does not necessarily result in more reliable data.
- Despite estimates from ILO/Walk Free Foundation on modern slavery that arguably present a more balanced global picture of all forms of trafficking, there is an exclusive reliance on data contained in the UNODC global reports and US State Department Trafficking in Persons report. The latter focus disproportionately and in some cases exclusively on women and girls, and primarily the sex industry.

Data and evidence

Recommendations



1. Conduct both qualitative and quantitative research, based on clear, appropriate and adequately described methodology and ethical principles and with the active participation of communities.
2. Avoid extrapolations and estimations, unless based on scientific, verifiable and reproducible methodology.

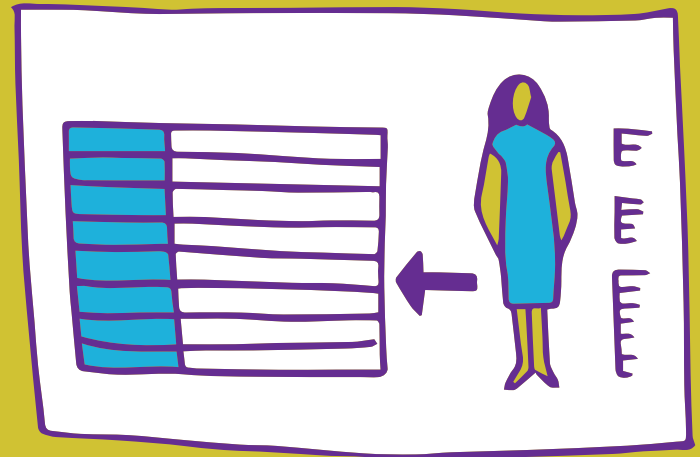


3. Collect information on all forms of trafficking disaggregated by age and gender, from all organisations and agencies that may come into contact with victims. Data collected by communities should be encouraged.

4. Avoid sensationalist and emotive stories when presenting data and research on trafficking in persons.



5. Collect data only with sufficient data protection guarantees.



6. Ensure that the presentation of quantitative data indicates clearly what groups it refers to, e.g. at-risk/vulnerable people, presumed victims of trafficking, or actual victims. Methodology should be clearly explained.

IV Prevention of trafficking and ensuring victim protection and access to justice in the context of trafficking

Concerns

- Measures to prevent trafficking are often thinly veiled measures to prevent women's migration and/or involvement in sex work.
- Anti-trafficking protection measures, such as shelter homes, infringe on women's freedom of movement and other civil liberties.
- Trafficked persons and returnee migrants often face acute social stigma due to negative stereotypes and entrenched patriarchal attitudes.
- There is a lack of coherence and cooperation among different agencies responsible for the care and referral of trafficked persons within and between countries.
- The absence of proper planning and implementation of reintegration services for trafficked persons contributes to the risk of re-trafficking and unsafe migration.

- Support and assistance to trafficked persons is often made conditional on their cooperation with the investigation and prosecution of traffickers. Rather than rights holders, trafficked persons are treated as an instrument of the criminal justice system.
- Many reintegration programmes for trafficked persons are designed and administered in a top-down manner, without any consultation with them or their communities.
- Empowerment and skills-training programmes for trafficked persons often reproduce existing social and gender inequalities by teaching women 'feminine' skills such as sewing and jewellery making; such 'skills' practically condemn women to a life of low-wage work and are insufficient for making a living.

Prevention of trafficking and ensuring victim protection and access to justice in the context of trafficking

Recommendations



1. Undertake gender-sensitive and people-centered rights education programmes to enable women and marginalised groups to be legally empowered.
2. Ensure that women have the agency and autonomy to move freely and safely and to choose the work they do at home and abroad.



3. Support the growth of ethical recruitment agencies.
4. Ensure the creation and implementation of safe reporting channels for trafficked persons.
5. Establish clear, transparent and accessible referral mechanisms for trafficked persons.

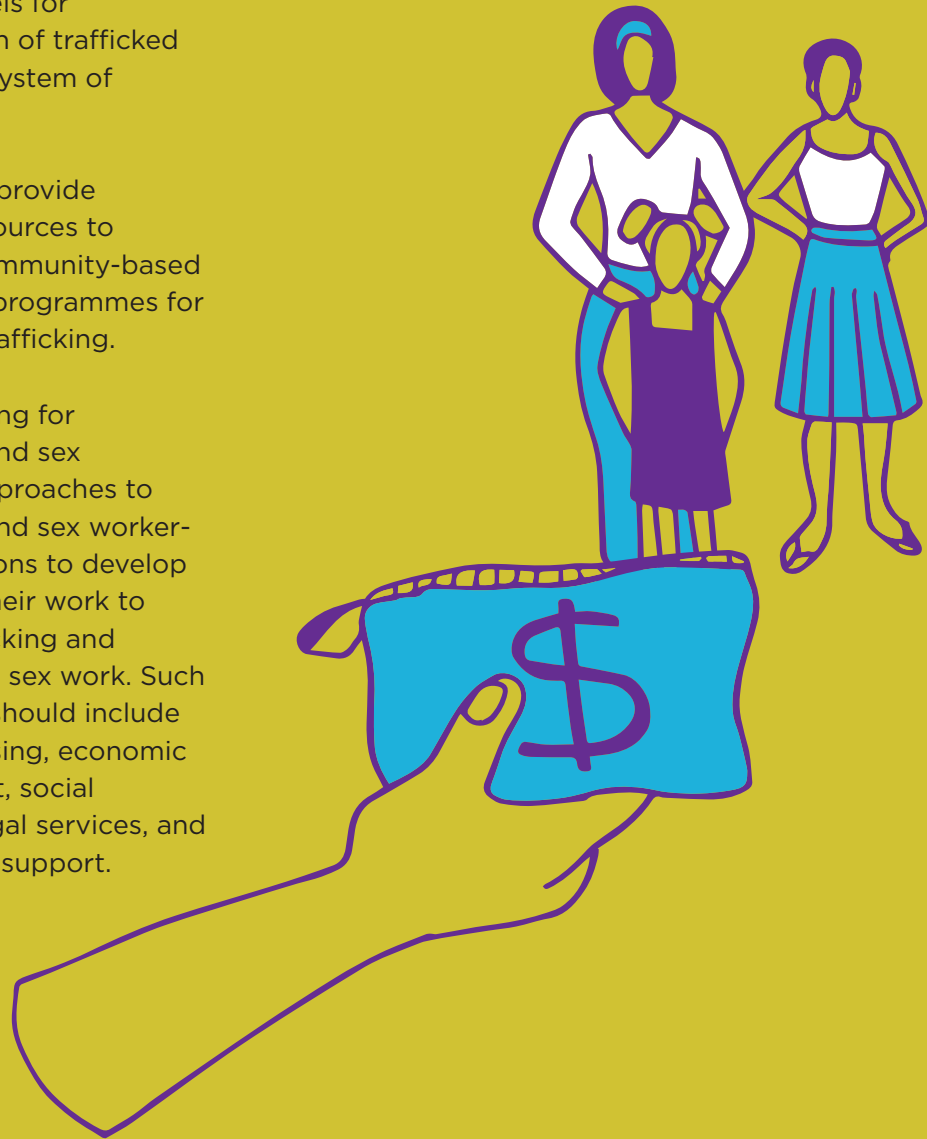


6. Empower women to make informed decisions during legal processes through ensuring access to information and legal aid.
7. Establish systems to take away profit from perpetrators of trafficking, whether they are individuals, corporations or financial institutions, and redistribute it to trafficked persons.
8. Create a strong social safety net for women by providing adequate livelihood opportunities and social security systems, including the provision of universal basic income.



9. Create social systems that enable and support trafficked persons to go through the legal process.
10. End the forced detention of trafficked persons, or persons presumed to have been trafficked, in detention centres or shelter homes.
11. Ensure that trafficked persons have access to protection and services regardless of their decision to cooperate with the investigation of the crime. Ensure that such services are voluntary.

12. Create channels for collectivisation of trafficked persons as a system of support.
13. Prioritise and provide necessary resources to implement community-based reintegration programmes for survivors of trafficking.
14. Improve funding for community- and sex worker-led approaches to trafficking. Fund sex worker-led organisations to develop and expand their work to address trafficking and exploitation in sex work. Such programmes should include labour organising, economic empowerment, social protection, legal services, and psychological support.



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