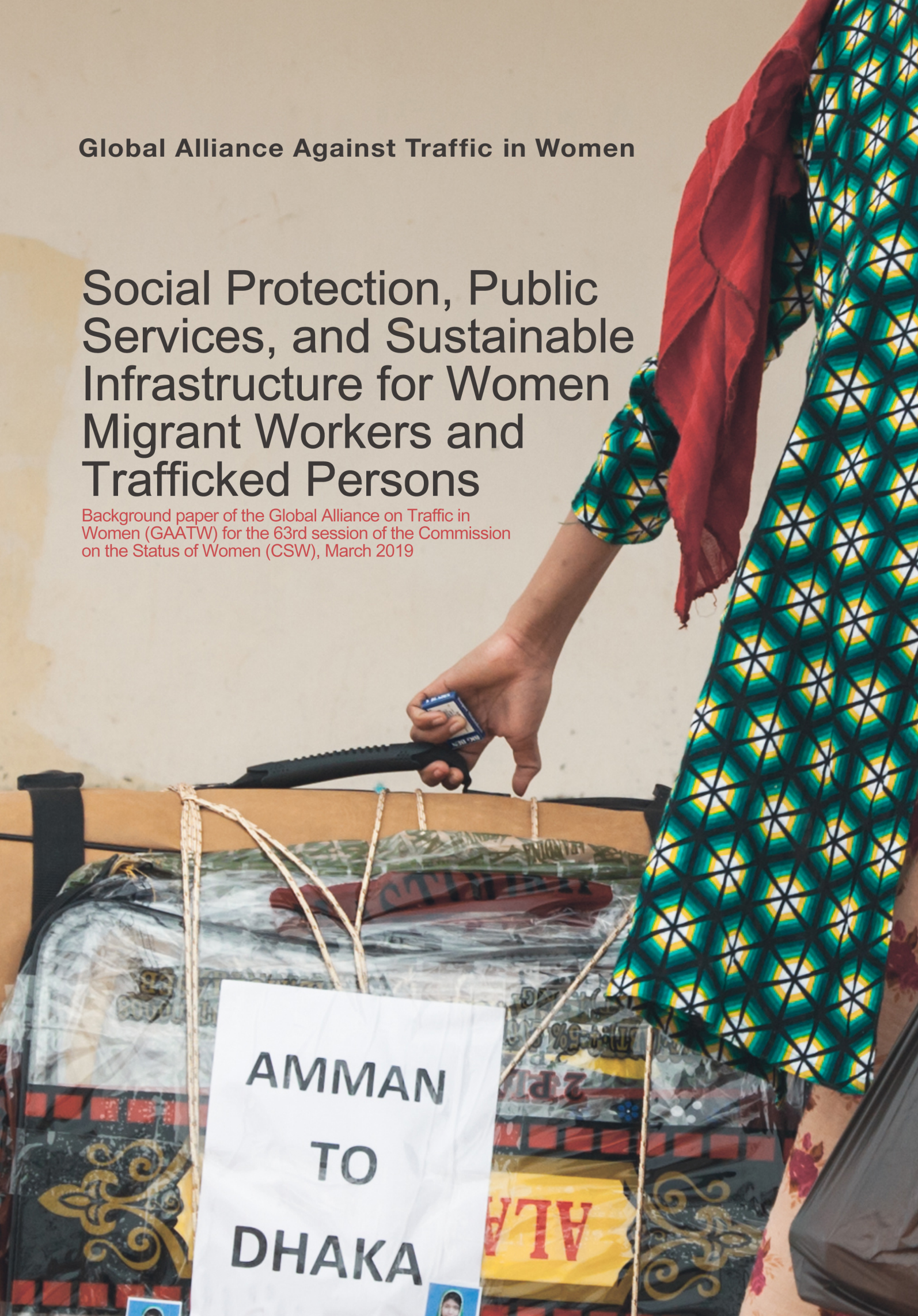


Global Alliance Against Traffic in Women

Social Protection, Public Services, and Sustainable Infrastructure for Women Migrant Workers and Trafficked Persons

Background paper of the Global Alliance on Traffic in Women (GAATW) for the 63rd session of the Commission on the Status of Women (CSW), March 2019



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This year, the Commission on the Status of Women (CSW) will meet in New York to discuss *“Social protection systems, access to public services and sustainable infrastructure for gender equality and the empowerment of women and girls”*

What are social protection floors?

The International Labour Organisation refers to social protection floors as involving four basic guarantees:

- Access to essential health care, including maternity care
- Basic income security for children (e.g. family allowances)
- Basic income security for persons of active age who are unable to earn sufficient income
- Basic income security for older persons.

The ILO promotes this through Recommendation No. 202, which urges states to pursue “horizontal” (covering as many people as possible) and “vertical” (progressive achievement of higher levels of protection) extension of social security.

What are public services?

Public services are services (like healthcare, education, and water) that governments are supposed to provide to people living within their jurisdiction, including migrants and their families. The access of trafficked persons to services is a part of public service provision that all states should provide.

What is gender-responsive, sustainable infrastructure?

Infrastructure development is not gender neutral. The burdens of poor infrastructure fall to women and girls who, due to gender inequality and gendered stereotypes about the division of labour, spend more time carrying water, fuel, and can often least afford to pay for easier access. Sustainable, and gender responsive infrastructure must respond to these injustices as well as the increasing threats of climate change and environmental damage.

Access to public services and social protection systems are key to the fulfilment of the rights of migrant women, and to preventing the trafficking and exploitation of women migrant workers.

WHAT ARE THE LINKS BETWEEN HUMAN TRAFFICKING, MIGRANTS' RIGHTS AND SOCIAL PROTECTION SYSTEMS?

Driving Distress Migration: Many migrant women cite the absence of social protection systems as key in decisions to migrate. These pressures create a supply of workers to precarious labour sectors such as the domestic and garment work.

The absence of social protection, in particular child allowance, old-age pension, and affordable healthcare are key in the decisions of women to migrate. Increasing economic pressures and patriarchal norms mean many women find themselves the sole breadwinners of their families, paying for the cost of education, health and social care for children and older family members.¹ A lack of access to services and of social protection floors contributes to distress migration – pushing workers into precarious labour sectors, such as the domestic and garment sectors.

“If I had access to education and jobs that meet decent work and living wage standards, my life would be different. I would not have to migrate to Jakarta or on to Hong Kong. If either country had provided universal healthcare to workers like me, I would not be in this situation and could live a life with dignity.” – Erwiana Sulistyaningsih²

The absence of social protection continues to burden women throughout their migration, with adverse effects: *“Being both a mother or housewife and a worker makes it harder for migrant women to deal with long working hours. Migrant women workers carry bigger financial burden in order to make enough money for increasing family members. The migrant women work harder for longer hours to earn more money and by doing so, it distorts their health.”³*

Filling gaps in Countries of Destination: Migrant workers, particularly women domestic and care workers are employed to fill gaps in social protection and services where economic pressures have increased the

¹ Danvi, the sole earner in her family, migrated from India to Saudi Arabia to support her two small children and her mother. Unregistered agents from Mumbai and Chennai took advantage of Danvi's lack of knowledge of the migration system to persuade her to migrate without a written employment contract and through irregular channels. See: Global Alliance Against Traffic in Women, *Enabling Access to Justice*, GAATW, Bangkok, 2018, http://www.gaatw.org/publications/GAATW_Enabling%20Access%20to%20Justice_2017.pdf p. 31.

² Former migrant domestic worker, speaking at the opening session of the Asia Pacific Regional Preparatory meeting for the Commission on the Status of Women, Feb 13 2019, <https://apwld.org/apwld-member-erwiana-sulistyaningsih-speaks-at-the-preparatory-meeting-for-csw63/>

³ Interview with MAP Foundation, Thailand.

unpaid care burden on women. Women migrants meet longstanding labour market needs, especially in health, education, and social care.

Women migrants play a crucial role in compensating for the underfunding and absence of public services in countries of destination. The demand for care work is determined by a number of factors, including decreasing public investment in health and education that would otherwise have enabled the employment of nurses, child care workers, or hospice care workers. In countries of destination, women migrant care and domestic workers in particular serve to fill gaps left by the decimation of state-provided care systems for children, the elderly and other social groups.

In Lebanon, for example, which struggles to provide social care for an aging population, migrant domestic workers are filling the gaps. The migrant domestic and care workers themselves, under the *kafala* system, are fully dependent on their employers for access to health care. Older migrant domestic workers GAATW's partners have spoken to in Lebanon who are filling this gap also face precarity themselves, with no pensions, no portability of social security benefits and dislocation from social support networks.

In some countries, migrant workers have been recruited to meet longstanding recruitment problems in the social care workforce, and now make up large sections of the workforce in the public sector, particularly in health (e.g. nurses), and education. For example, in the UK, migrants make up 40% of the workforce of the health and social work sectors.⁴

Remittances - Key to filling gaps in Countries of Origin: Remittances are used to clothe, feed, house, and educate the families of migrant women at home - playing a crucial role in compensating for the underfunding and absence of public services and social protection.

Women migrant workers play a crucial role in compensating for the underfunding and absence of public services in countries of origin. Their economic contributions compensate for the evisceration of public services and provisioning in countries of origin, where their remittances are used to clothe, feed, house, and educate their families.

In the Philippines, where the majority of overseas workers are women, between one third and one half of all households are partially or fully dependent on the remittances of overseas workers. Women migrants were also found to remit a larger proportion of their income compared to male migrants.

⁴ C Dustmann and T Frattini, *The impact of migration on the provision of UK public services (SRG.10.039.4)*, <https://www.ucl.ac.uk/~uctpb21/reports/provision-of-uk-public-services.pdf>.

Denied access, women (migrants) are at greater risk: Migrant women are often excluded from public services and social protection in policy and in practice, and face discrimination in accessing services. This amplifies risks factors to exploitation and trafficking. Women in general have poorer access to social protection, are excluded from considerations in infrastructure, and are disproportionately impacted by austerity, privatisation and cuts to public services.

Migrant workers, both internal and cross-border, are often denied rights and access to social protection and public services which makes their migration and work more precarious, and increases the risks of trafficking and exploitation.

While acknowledging that some States may struggle to provide comprehensive social protection and public services to citizens, international human rights law does not make any exclusion of rights to public services for any migrants, regardless of status, and gives the right to an adequate standard of living, including food, housing and health without discrimination.⁵

Migrants are often deliberately excluded from welfare systems and social protection initiatives⁶ in policy and in practice, and face discrimination in accessing services⁷ on par with nationals in the areas of health care, education, housing, legal aid, social benefits such as employment insurance, protection of law enforcement bodies, labour organisations, and others.

The exclusion of migrants from services is a deliberate policy of some governments. Some look to benefit from the labour of migrants, while rejecting responsibility for the social cost of their migration, while others have actively sought to penalise the access to public services by migrants in an irregular situation in order to create a “hostile environment”⁸ for migrants.

Women migrants’ lack of access to social protection systems amplifies risk factors to exploitation and trafficking. Migrant women face barriers to reporting dangerous working conditions or rights abuses if they fear doing so will bring them to the attention of immigration enforcement actors.

⁵ International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 11(1): *The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.* ICESCR, Article 2(2): *The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

⁶ K Long and R Sabates-Wheeler, *Migration, Forced Displacement and Social Protection*. GSDRC Rapid Literature Review, Birmingham, UK: University of Birmingham, 2017; J Hagen-Zanker, E Mosler Vidal and G Sturge, *Social protection, migration and the 2030 Agenda for Sustainable Development*, ODI Briefing

⁷ B McKernan, ‘Kuwaiti hospital “will refuse to treat migrant labourers”’, *The Independent*, 22 February 2017, <https://www.independent.co.uk/news/world/middle-east/kuwait-city-migrant-workers-discrimination-new-hospital-a7593406.html>

⁸ Global Justice Now, *The hostile environment for migrants*, 2018, https://www.globaljustice.org.uk/sites/default/files/files/resources/hostile_environment_briefing_feb_2018_web.pdf

However, evidence shows that restricting the access of undocumented migrants to services can have clearly negative consequences, both social and economic, for the country as a whole. In 2012 in Spain, in response to Troika-imposed austerity measures, the government restricted access to a previously universal health care service to only those contributing to the social security system – effectively excluding many undocumented migrants. By 2018, the move was proving to have negative implications - increasing risks of gender based violence, increasing the incidence of unsafe abortion, the risk of infectious disease for the population as a whole, and increasing the mortality risk among undocumented migrants.⁹ As a consequence, in 2018, the Government decided to reverse its earlier decision. However, the lack of trust in the health system may take more time to recover – the move increased migrants’ perception of the health service as a threat rather than a source of protection.¹⁰

In Jordan, our research found that women migrating for garment work are frequently denied their rights to health. General health insurance is not mandatory for migrant garment workers, and is absent from labour and migration laws and policies governing their migration and employment.¹¹ Garment workers, most of them women, are discouraged by employers from seeking treatment for illnesses, and when they do, treatment is superficial and geared towards getting them back to work as soon as possible, which often exacerbates their health condition. Workers suffering from serious back pain caused by long hours standing at work were routinely administered strong painkillers and sent back to work immediately. Moreover, costs for health treatment are often deducted from their salary, which further discourages them from seeking treatment, since they cannot afford to lose some of their already low salary.

Even when Governments have made steps towards the provision of universal health care, as in Thailand, migrants can be excluded in practice, when employers exploit the precariousness that migrant workers face. In the context of migrant garment workers in Mae Sot, employers were found to be completely ignoring and denying migrant workers’ right to health care. Research carried out by MAP Foundation in Thailand found that pregnant migrant garment workers had to be at work unless they were giving birth and had to come back to work directly after giving birth, on penalty of losing their job.

Women have poorer access to social protection, are excluded from considerations in infrastructure, and are disproportionately impacted by austerity, privatisation and cuts to public services.

⁹ L Peralta-Gallago, ‘Effects of undocumented immigrants exclusion from healthcare coverage in Spain’, *Health Policy*, vol. 122, issue 11, 2018, pp. 1155-1160, <https://www.sciencedirect.com/science/article/pii/S0168851018304160>

¹⁰ A Ballesteros Pena and A Morero Beltrán, ‘Migrant Women’s Health in Spain: A Snapshot of the Consequences of the Royal Decree-Law of Sanitary Regulation 16/2012’, *Compas*, 2015, <https://www.compas.ox.ac.uk/2015/migrant-womens-health-in-spain-a-snapshot-of-the-consequences-of-the-royal-decree-law-of-sanitary-regulation-162012/>

¹¹ Ministry of Labour’s 2007 "Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers in the Qualified Industrial Zones Issued by virtue of the Provisions of Article (12/A) of the Labour law No. (8) of the Year 1996 and its Amendments" which determine the hiring practices throughout the garment sector, do not include any provisions regarding health insurance.

Globally, women are more likely than men to be poor, and also bear the brunt of public spending cuts.¹² Women are over-represented among the 73 per cent of the world's population who have only partial or no access to social protection;¹³ and where they gain access, they tend to do so on highly unequal terms. Social protection systems have been designed around a "male breadwinner model", which penalises women who are disproportionately engaged in informal sector work, and carry the burden of unpaid care work.¹⁴

Some of this exclusion from social protection is connected to the prevalence of and women's disproportionate participation in informal work. In Asia, as much as 63% of the working population is in informal work,¹⁵ and in Latin America, the figure stands at 53%. Seventeen million women in the LAC region work as domestic workers, around 70% of whom are informal workers. Despite progress made in legal protections for domestic workers in the region, the implementation of those commitments is lacking.

Women are more dependent on some public services and infrastructure than men, for example public transport. Globally, a much greater number of women use public transport than men,¹⁶ including for care purposes,¹⁷ which means that when services are limited, ended, are prohibitively expensive or unsafe, women suffer and can lose freedom of movement and access to work and education opportunities. Similarly, women can also suffer when infrastructure is built in such a way that increases their burden of unpaid work or puts them at additional risk – for example when communal wells or toilets are built far from homes, workplaces or schools.

Women are a significant sector of the public sector workforce,¹⁸ which means that the privatisation, underfunding of and low and stagnating wages in the public sector, impact women negatively. Low pay and great income disparity between countries in public sector jobs can also be a factor in decision making around migration when better paid jobs are available for

¹² Women for Tax Justice, 'Why is tax a feminist issue?', <https://womenfortaxjustice.wordpress.com/about/why-is-tax-a-feminist-issue/>

¹³ UN Women, *Progress on the World's Women 2015-2016*, UN Women, 2016, <http://progress.unwomen.org/en/2015/pdf/SUMMARY.pdf>

¹⁴ "Social protection systems have been designed around a male breadwinner model, assuming an uninterrupted and full-time career in the formal economy. This tends to penalise women, who are lower paid, disproportionately represented in precarious and informal work, and shoulder most unpaid care, resulting in substantially lower coverage rates and benefit levels." Written Statement of the Global Coalition for Social Protection Floors to the Commission on the Status of Women (CSW63), <http://www.socialprotectionfloorscoalition.org/2018/10/written-statement-gcspf-csw63/>

¹⁵ ILO, 'More than 68 per cent of the employed population in Asia-Pacific are in the informal economy', 2 May 2018, https://www.ilo.org/asia/media-centre/news/WCMS_627585/lang--en/index.htm

¹⁶ K G Carvajal, 'Transport is not gender neutral', *World Bank Blogs*, 24 January 2018, <http://blogs.worldbank.org/transport/transport-not-gender-neutral>

¹⁷ 'Public Transportation: Rethinking Concepts and Theories', *Gendered Innovations*, <http://genderedinnovations.stanford.edu/case-studies/transportation.html#tabs-1>

¹⁸ The proportion of women employed in the public sector is higher than the proportion in the labour market as a whole, see: M Hammouya, *Statistics on public sector employment: Methodology, structure and trends*, ILO, Geneva, 1999; https://www.ilo.org/public/english/bureau/stat/download/wp_pse_e.pdf; C Dustmann and T Frattini, *The impact of migration on the provision of UK public services (SRG.10.039.4)*, <https://www.ucl.ac.uk/~uctpb21/reports/provision-of-uk-public-services.pdf>: "With respect to the gender distribution, women are substantially more likely to work in the public sector than men: the share of women among public sector workers is more than 20 percentage points higher than among private sector workers for both immigrants and natives."

the same roles in other countries, leading to the draining of much needed skills and experience in countries of origin.¹⁹

Reduced capacity to prevent, detect and respond to trafficking:

Austerity measures, including the privatisation and underfunding of public services, have a detrimental impact on preventing, detecting and responding to trafficking. It is critical that public service providers have the financial and human resources to identify and respond to human trafficking.

Public services include social services, including the specific services and support to which trafficked persons are entitled. In addition to emergency needs, short and long-term services survivors of trafficking require include housing, legal assistance, advocacy, physical and mental health services, child care, education, life skills training, employment, and sometimes family reunification or repatriation.²⁰ Austerity measures, including the underfunding of public services and NGOs have had a detrimental impact on abilities to detect and prevent trafficking. As noted by the UN Special Rapporteur on Trafficking in Persons “as demand for cheap labour increases, economic conditions deteriorate and fewer public authorities are available to conduct labour inspections or offer child protection services.”²¹

Given the role that public service providers can play in victim identification and assistance, it is critical that public service providers, including labour inspections, law enforcement, immigration, health and social service providers and NGOs have the resources and capacity to identify signs of trafficking. Health services are particularly important to anti-trafficking interventions – with research showing that trafficked persons are more likely to speak to health personnel than to law enforcement personnel.²²

Trafficked persons are sometimes denied their rights to public health care, as well as the eligibility for pension schemes or for unemployment benefits because they have stopped paying their contributions while they were trafficked. Many are in need of physical and psychological care upon their return which they cannot access free of charge. They might also

¹⁹ E Castro-Palaganas *et al.*, ‘An examination of the causes, consequences, and policy responses to the migration of highly trained health personnel from the Philippines: the high cost of living/leaving—a mixed method study’, *Human Resources and Health*, 2017, pp. 15-25, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5374678/>.

²⁰ H J Clawson and N Dutch, *Addressing the Needs of Victims of Human Trafficking: Challenges, barriers, and promising practices*, 2008, <https://aspe.hhs.gov/report/addressing-needs-victims-human-trafficking-challenges-barriers-and-promising-practices>

²¹ Report of the UN Special Rapporteur on trafficking in persons, especially women and children, 12 August 2009, A/64/290; UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Mission to Romania, 30 June 2011, A/HRC/18/30/Add.1; Report of the UN Independent Expert on foreign debt and human rights, 13 August 2012, A/67/304 cited in *Safeguarding human rights in times of economic crisis: Issue Paper* published by the Council of Europe Commissioner for Human Rights, November 2013, p. 18.

²² C Schwarz *et al.*, ‘Human Trafficking Identification and Service Provision in the Medical and Social Service Sectors’, *Health and Human Rights Journal*, 2016, <https://www.hhrjournal.org/2016/04/human-trafficking-identification-and-service-provision-in-the-medical-and-social-service-sectors/>

not be eligible for pensions later on, or to claim unemployment benefits because they have lost work periods.

In many countries, trafficked persons are entitled to free legal aid, including representation in civil and criminal proceedings. However, reductions in public spending are increasing the workload of prosecutors and public defenders, leading to ineffective legal representation and/or to traffickers accepting plea bargains and low sentences.²³

WAYS FORWARD: TOWARDS SOCIAL PROTECTION FLOORS AND AFFORDABLE, ACCESSIBLE, QUALITY, UNIVERSAL PUBLICLY-FUNDED, GENDER-RESPONSIVE PUBLIC SERVICES

Despite playing an outsized, and trans-boundary role in social protection, women migrants are among the groups least able to access public services and social protection. In some cases, this has life-threatening consequences, with migrants fearful of or unable to access the medical care they need. Migrant women workers in Cambodia we spoke to earn so little that they consider health a luxury they cannot afford.²⁴

Access to public services and social protection systems are key to the fulfilment of the rights of migrant women, and to preventing trafficking. However, progress is threatened by budget cuts and austerity measures that have resulted in the privatisation of public services, increased user fees and reduced access to public services for migrant women and girls.

A world free from trafficking and exploitation demands a transformed economy, one which works for the many, and not for the few.

Taxation is a sustainable and predictable source of financing for public services as well as being a vital mechanism for addressing inequality, including gender inequality.²⁵

However at present, the tax burden falls disproportionately on those least able to pay it. Tax evasion, extremely low corporate tax rates, and the offering of competing tax incentives by

²³ A M Gershowitz and L R Killinger, 'The State (Never) Rests: How excessive prosecutorial caseloads harm criminal defendants', *Northwestern University Law Review*, vol. 105, no. 1, 2011; J Higgins, 'Public defenders are overworked and underfunded', *Kansan*, 25 July 2018, http://www.kansan.com/opinion/higgins-public-defenders-are-overworked-and-underfunded/article_bf473818-9024-11e8-abbb-c7a06732e8b5.html

²⁴ Internal migrant garment workers in Cambodia interviewed by GAATW said that the living cost in the city and the current inflation in the country are so high that most garment workers who migrated from rural area to the urban industrial zones find it impossible to make a living on the minimum wage. 25% of their monthly salary is spent on room rental, 35% is sent to the family back home – which is partly used for medical spending, 10% is for transport and other social costs. With remaining 30%, workers are left with less than USD 2 per day for food. There is no room for healthcare spending and saving becomes a luxury. Long hours of work, substandard working environment, and insufficient nutrition often add up to the mass fainting of garment workers who are disproportionately women.

²⁵ 'SDG 5: Women, macroeconomic policies and the SDGs', *Spotlight on Sustainable Development*, <https://www.2030spotlight.org/en/book/1730/chapter/sdg-5-women-macroeconomic-policies-and-sdgs>

investing companies, and corporate-friendly trade deals²⁶ mean that governments are deprived of the ability to meet their obligations under the Sustainable Development Goals. Substantial changes in the way our economies work is critical if States are to stay on track with their commitments under Agenda 2030.

We want to see a move away from the privatisation of services and the broadening and deepening of social protection floors. A study by the ILO showed that a social protection floor is possible even for poor countries.²⁷ States need to build fair and strong national tax systems, and implement tax reform measures including taxing higher income categories and wealth more strongly, taxing certain financial transactions, shoring up the tax base and curbing illicit financial flows, tax avoidance and evasion, and eliminating tax incentives for corporates. At a global level, it is important to continue to push for the creation of an intergovernmental global tax body that would ensure that all countries have a say in the regulations and frameworks governing taxation.²⁸

In addition to transformative economic measures, States must take specific provisions to include migrant women and informal sectors in social protection and public services:

- Strengthen the quality, accessibility and affordability of public services by keeping them **inclusive of marginalised groups, and in public control.**
- Ensure **adequate funding for public services** to deliver quality services for migrants, refugees and host communities.
- Ensure that **services for trafficked persons are well-funded, well-coordinated, comprehensive, and non-conditional.**
- **Establish mechanisms for the portability of social security** entitlements and benefits, for all migrant workers, regardless of sector.
- **Make no distinction in access to services:** All migrants, regardless of status, must be able to access quality public services without fear and on the basis of equal treatment and non-discrimination.
- **Implement firewalls:** prohibit information sharing between service providers and immigration authorities, so that migrants can access services and report labour issues without fear of arrest, detention and expulsion.

Value, reduce and redistribute unpaid care work: The lack of value given to this gendered work informs the undervaluing of women’s labour in the transnational care economy. The lack of legal protection, social discrimination, non- and underpayment that migrant domestic workers

²⁶ Trade deals, like RCEP, limit the possibility of access to services and the protection of social protection floors in a number of ways, for example: extend monopolies on patents to life-saving medicines, limiting the possibility of health care for all, and corporate courts draining public coffers.

²⁷ ILO, *World Social Protection Report 2017-19: Universal social protection to achieve the Sustainable Development Goals*, ILO, Geneva, 2017, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_613784/lang--en/index.htm

²⁸ *Ibid.*

experience creates conditions of exploitation that can meet the criteria for human trafficking. States should further:

- Close the gender pay gap;
- Value, reduce and redistribute unpaid care work (in line with SDG 5.4);
- Institute the principle of equal pay for work of equal value (in line with States commitments under SDG 8.5) ;
- Ratify and implement ILO Convention 189.



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