

**Organization for Security and Co-operation in Europe**

Special Representative and Co-ordinator
for Combating Trafficking in Human Beings

Vienna, 22 June 2021

**Contribution to the Committee on the Elimination of Discrimination against Women (CEDAW) for its general discussion on the rights of indigenous women and girls**

**“Equality and non-discrimination with a focus on indigenous women and girls and intersecting forms of discrimination”**

1. The Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB) congratulates the Committee on the Elimination of Discrimination against Women (CEDAW) for prioritizing this important issue and expresses its gratitude for the opportunity to contribute to this discussion on the rights of indigenous women and girls. This written submission was prepared in response to the call by the Committee for inputs to the general discussion on the rights of indigenous women and girls. It recognizes **the critical importance of developing clear guidance on ways to combat discrimination against indigenous women and girls in particular in the context of combatting trafficking in human beings**.
2. Fifty-five of the 57 OSCE participating States are State parties to the CEDAW, and are therefore obliged to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.” (Article 6). Furthermore, the OSCE participating States have identified **discrimination based on race and ethnicity** **among the contributing factors to trafficking in human beings**. In this regard, the 2003 OSCE Action Plan to Combat Trafficking in Human Beings highlighted the “root causes of trafficking in human beings, occurring both in countries of origin and destination (…) such as poverty, weak social and economic structures, lack of employment opportunities and equal opportunities in general, violence against women and children, discrimination based on sex, race and ethnicity”. The OSCE participating States further recognized the significance of “identifying the most vulnerable segments of the population,” “addressing all forms of discrimination against minorities” and raising awareness campaigns targeting “the most vulnerable groups, including persons belonging to national minorities”.[[1]](#footnote-1)
3. The **nexus between trafficking in human beings and racial and ethnic discrimination** has therefore been recognized in the OSCE region for nearly two decades. The 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings also recommended enlarging multi-disciplinary partnership to facilitate dialogue and co-operation with members of ethnic, national and religious minorities, to contribute to the identification of trafficked persons and advance the protection of the rights of potential, presumed and actual victims of trafficking in human beings.[[2]](#footnote-2)
4. Trafficking in human beings disproportionately affects women and girls; 65 per cent of all victims detected worldwide are female according to UNODC data.[[3]](#footnote-3) Moreover, **sexual exploitation is the predominant form of trafficking** comprising 50 per cent of all detected trafficking cases, with women and girls representing 92 per cent of the detected victims.[[4]](#footnote-4) Further research shows that women and girls from marginalized communities constitute the majority of detected victims of trafficking.[[5]](#footnote-5) Minority women and girls are disproportionately subjected to sexual and physical violence due to strong racial and ethnic biases. At the same time, rates of prosecutions and convictions are extremely low, indicating that perpetrators continue to enjoy impunity due to the lack of attention given to combatting trafficking in women and girls.[[6]](#footnote-6)
5. The crime of trafficking against women and girls thrives due to a number of factors and root causes which have not yet been effectively addressed. Trafficking in women and girls happens in a continuum of violence linked to the demand that fosters exploitation.[[7]](#footnote-7) In this regard, Article 9 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) urges States to *“adopt or strengthen legislative or other measures, such as educational, social or cultural measures (…) to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking”.*[[8]](#footnote-8) In its most recent General Recommendation No. 38, the CEDAW Committee also recognized the need “to discourage demand that fosters all forms of exploitation of persons, especially of women and children, that leads to trafficking”[[9]](#footnote-9) and that “trafficking and sexual exploitation in women and girls is a human rights violation and can be a threat to international peace and security.”[[10]](#footnote-10)
6. Gender alone does not define risk or susceptibility to victimization and intersecting factors such as age, unemployment, immigration status, disability, illness, substance abuse, homelessness, ethnicity or racial belonging, and sexual orientation play an important role in the victimization process.[[11]](#footnote-11) Among women and girls from marginalized communities, poverty and the inability to gain access to decent work may push them to seek riskier economic opportunities where they are at risk of coercion, abuse and trafficking. Efforts to flee situations of violence and abuse also prompt women and girls to take risks that may lead to them being trafficked.[[12]](#footnote-12) The links between domestic violence and trafficking in human beings have also been documented.[[13]](#footnote-13)
7. **Marginalization, intolerance and discrimination against ethnic, national and religious minorities contribute to vulnerability to trafficking in human beings.** With regard to indigenous women and girls specifically, the 1992 Helsinki Document “the Challenges of Change” noted that “*persons belonging to indigenous populations may have special problems in exercising their rights, [participating States] agree that their [Conference for Security and Co-operation in Europe] commitments regarding human rights and fundamental freedoms apply fully and without discrimination to such persons.*”[[14]](#footnote-14)
8. **Indigenous women and girls are particularly vulnerable to trafficking** due to structurally intersecting forms of ethnic and gender discrimination, poverty and social exclusion, as well as the history of colonialism and institutional racism, despite their rights as women, minorities, and indigenous peoples being enshrined in international legal instructions (*inter alia* in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Discrimination Against Women (CEDAW), the Beijing Declaration, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the Convention on the Elimination of All Forms of Racial Discrimination, and the Universal Declaration of the Rights of Indigenous Peoples[[15]](#footnote-15)). Research has also shown that “chronic, intergenerational homelessness and the institutionalization of Native women as “prostitute” are two reasons among a multitude of discriminations that entrap Native women and girls in prostitution and sex trafficking.”[[16]](#footnote-16)
9. In the OSCE region, indigenous peoples mainly live in Canada and the United States, and the circumpolar States of Denmark (Greenland), Sweden, Norway, Finland and Russia. Challenges differ across and within the participating States in terms of the disadvantages and discrimination experienced.[[17]](#footnote-17) However, geographical marginalization compounded by the lack of access to housing, healthcare, education and employment have often resulted in high prevalence of sexual exploitation, trafficking in human beings, and violence. In the United States, for instance, research has highlighted that American Indian and Alaska Native women and girls are 1.2 times as likely as non-Hispanic white-only women to have experienced violence in their lifetime[[18]](#footnote-18) thus increasing their risk of falling prey to sex trafficking. Belonging to a minority group may often determine the treatment that potential or actual trafficked victims from such groups might receive. This can include the lack of identification and referral to national referral mechanisms (NRMs) as a victim of trafficking, unequal access to basic rights and services and discrimination and stigmatization in the provision of assistance and social inclusion support. In addition, many of the crimes of which they are victims are not investigated or prosecuted as a result of discrimination by law enforcement institutions.
10. In conclusion, with this written contribution, the OSCE OSR/CTHB hopes to raise awareness about the **impact of discriminatory approaches** tothe identification, protection, and criminal justice process of indigenous women and girls, who are victims of trafficking. It is also hoped that the Committee will be able to emphasize the fact that **discrimination based on race and ethnicity**,including against indigenous women and girls, **is a vulnerability factor prior to, during and after the trafficking process.** Because of the intersectional nature of trafficking in human beings of indigenous women and girls, greater effort is required to address multiple and overlapping forms of discrimination.

*The OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings (SR/CTHB) represents the OSCE at the political level on anti-trafficking issues and the Office of the SR/CTHB (OSR/CTHB) assists OSCE participating States in the implementation of commitments and full usage of recommendations set forth in the OSCE Action Plan to Combat Trafficking in Human Beings. It does so by engaging in a dialogue with authorities in a variety of fora including during country visits, by support policy and legislative developments and by implementing targeted technical assistance and capacity building projects. It also seeks to improve knowledge on pressing issues and inform policy development.*

1. OSCE Ministerial Council (2003), [Decision No. 2/03, “Combating Trafficking in Human Beings”](https://www.osce.org/mc/40379), Maastricht, 3 December 2003, MC.DEC/2/03. [↑](#footnote-ref-1)
2. OSCE Permanent Council (2013), [Decision No. 1107, “Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later”](https://www.osce.org/addendum), 6 December 2013. [↑](#footnote-ref-2)
3. UNODC (2021), [Global Report on Trafficking in Persons 2020](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf). [↑](#footnote-ref-3)
4. Ibid. [↑](#footnote-ref-4)
5. [Office of the Special Representative and Co-ordinator for Combatting Trafficking in Human Beings](https://www.osce.org/cthb) (2021), Discouraging the demand that fosters trafficking for the purpose of sexual exploitation, <https://www.osce.org/cthb/489388>. For instance, in the United States between 2008 and 2010, 40% of identified victims of trafficking for the purpose of sexual exploitation were Black compared with 13% of the general population, while only 26% of identified victims were White compared with 78.4% of the population. See also UNOHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking (Geneva: UNOHCHR, 2010), p. 101: As noted by the UNOHCHR, the “demand for prostitution (often supplied through trafficking) may reflect discriminatory attitudes and beliefs based on both race and gender”. [↑](#footnote-ref-5)
6. [Office of the Special Representative and Co-ordinator for Combatting Trafficking in Human Beings](https://www.osce.org/cthb) (2020), Ending Impunity Delivering Justice through Prosecuting Trafficking in Human Beings, <https://www.osce.org/cthb/470955> [↑](#footnote-ref-6)
7. [↑](#footnote-ref-7)
8. [↑](#footnote-ref-8)
9. Committee on the Elimination of Discrimination against Women (2020), [General recommendation No. 38 (2020) on Trafficking in Women and Girls in the Context of Global Migration](https://www.ohchr.org/en/hrbodies/cedaw/pages/recommendations.aspx), CEDAW/C/GC/38, para. 30. The General Recommendation No. 38 refers to the UN General Assembly (2000), [Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en), 15 November 2000, Art. 9(5). [↑](#footnote-ref-9)
10. Committee on the Elimination of Discrimination against Women (2020), [General recommendation on Trafficking in Women and Girls in the Context of Global Migration](https://www.ohchr.org/en/hrbodies/cedaw/pages/recommendations.aspx), CEDAW/C/GC/38, para. 14. See also OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Applying gender-sensitive approaches in combating trafficking in human beings* (Vienna, 2021), <https://www.osce.org/cthb/486700> [↑](#footnote-ref-10)
11. OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Applying gender-sensitive approaches in combating trafficking in human beings* (Vienna, 2021), p. 9, 11, 24-25, 44, 52. [↑](#footnote-ref-11)
12. UN General Assembly (2018), [Trafficking in women and girls: Report of the Secretary-General](https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/05/report/report-of-the-secretary-general-trafficking-in-women-and-girls-a-73-263/SGs-trafficking-in-women-and-girls-report-2018.pdf), 27 July 2018, A/73/263, para. 19.  [↑](#footnote-ref-12)
13. OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Applying gender-sensitive approaches in combating trafficking in human beings* (Vienna, 2021), p. 24-25, <https://www.osce.org/cthb/486700>. See also NNEDV (2017), [The Intersections of Domestic Violence and Human Trafficking](https://nnedv.org/latest_update/intersections-domestic-violence-human-trafficking/). [↑](#footnote-ref-13)
14. CSCE (1992), [Third CSCE Summit of Heads of State or Government](https://www.osce.org/mc/39530), Helsinki, 9 - 10 July 1992, VI The Human Dimension: para. 29. [↑](#footnote-ref-14)
15. Twelve OSCE participating States did not vote, abstained or voted against the Universal Declaration on the Rights of Indigenous Peoples: Azerbaijan, Georgia, Canada, the United States, Russia, Ukraine, Romania, Kyrgyzstan, Uzbekistan, Tajikistan, Turkmenistan, and Montenegro. UN Office of the High Commissioner for Human Rights (OHCHR) (2013), [The United Nations Declaration on the Rights of Indigenous Peoples](https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html), August 2013, HR/PUB/13/2. [↑](#footnote-ref-15)
16. See also National Resource Center on Domestic Violence (2020), [Colonization, Homelessness, and the Prostitution and Sex Trafficking of Native Women](https://vawnet.org/sites/default/files/assets/files/2020-02/NRCDV_ColonizationHomelessnessandProstitution-Jan2020.pdf). [↑](#footnote-ref-16)
17. OSCE Parliamentary Assembly (2012), [Women as National, Ethnic, Linguistic, Racial and Religious Minorities](https://www.oscepa.org/en/documents/special-representatives/gender-issues/report-17/1237-2012-annual-session-report-by-the-special-representative-on-gender-balance/file), July 2012. [↑](#footnote-ref-17)
18. Rosay, André B., “Violence Against American Indian and Alaska Native Women and Men,” NIJ Journal 277 (2016): 38-45, available at <http://nij.gov/journals/277/Pages/violence-againstamerican-indians-alaska-natives.aspx>. [↑](#footnote-ref-18)