



Institute to Address Commercial Sexual Exploitation (CSE Institute)
Comments on Draft Update of General Recommendation No. 19 on Violence Against Women,
submitted to the Committee on the Elimination of All Forms of Discrimination Against Women
(CEDAW)¹

Submitted on 30 September 2016

Omission of Recommendations Regarding Commercial Sexual Exploitation

One striking difference between the original 1992 version of General Recommendation No. 19 on Violence Against Women and the Draft Update of 2016 is the latter's omission of any recommendations regarding trafficking or sexual exploitation. The 1992 General Recommendation called for "[s]pecific preventive and punitive measures...necessary to overcome trafficking and sexual exploitation," and required that "States parties in their reports should describe the extent of all these problems and the measures, including penal provisions, preventive and rehabilitation measures, that have been taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation." In comparison, the Draft Update of 2016 fails to mention trafficking or sexual exploitation. We encourage the Committee to reaffirm its commitment to addressing trafficking and sexual exploitation in the context of General Recommendation No. 19 on Violence Against Women, and thus to amend the Draft Update appropriately.

Below, we have suggested several places where a comment and/or recommendation regarding trafficking and sexual exploitation would be appropriate and welcome.

Paragraph 13 (b): Responsibility for acts or omissions of non-State actors

Given the failure of States to investigate, prosecute, and punish violence against commercially sexually exploited persons by non-State actors, we encourage the Committee to include this issue as a matter of special concern in Paragraph 13(b).

Paragraph 15 [Prevention] (e): Encouraging private sector engagement

Given the frequency with which hotels are used to facilitate/accommodate trafficking and sexual exploitation, we encourage the Committee to include this issue as a matter of special concern in Paragraph 15 [Prevention] (e). Specifically, we encourage the Committee to recommend adoption of laws providing civil remedies that empower exploited persons to pursue civil causes of action against hotels (and other similar private sector businesses, e.g., strip clubs) that knowingly, recklessly, or negligently profit from trafficking/commercial sexual exploitation.

¹ Comments reflect the views of the CSE Institute and do not purport to reflect the views of Villanova University.

Paragraph 15 [Prevention] (j): Repeal legal provisions that...discriminate against women, and thereby ... tolerate gender-based violence

Given that the legalization of prostitution normalizes (and increases) trafficking² and sexual exploitation and thus contributes to a culture of tolerance regarding such discrimination, we encourage the Committee to oppose the legalization of prostitution. As the former UN Special Rapporteur on Trafficking in Persons observed in 2006:

*For the most part, prostitution as actually practised in the world usually does satisfy the elements of trafficking...Thus, State parties with legalized prostitution industries have a heavy responsibility to ensure that ... their legalized prostitution regimes are not simply perpetuating widespread and systematic trafficking. As current conditions throughout the world attest, States parties that maintain legalized prostitution are far from satisfying this obligation.*³

Paragraph 15 [Prevention] (k): Examine gender-neutral laws and policies to ensure that they do no exacerbate existing inequalities and repeal them if they do so

Given that facially gender-neutral laws and policies regarding prostitution have nonetheless resulted in significant gender inequalities in enforcement and punishment, with female “sellers” (or, more accurately, females who are “sold”) being arrested, prosecuted, and imprisoned at much higher rates than male “buyers”, we encourage the Committee to include this issue as a matter of special concern in addressing Paragraph 15 [Prevention] (k).⁴

² Cho, Seo-Young and Dreher, Axel and Neumayer, Eric, *Does Legalized Prostitution Increase Human Trafficking?* (January 16, 2012). *World Development*, 41 (1), 2013, pp. 67-82.

³ Commission on Human Rights, *Integration of the human rights of women and a gender perspective*, Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Sigma Huda, U.N. Doc. E/CN.4/2006/62 (2006), paras. 42-43.

⁴ For an analysis of how facially neutral laws result in vast gender inequality as applied, see our Policy Paper regarding prostitution recidivism law enforcement in Pennsylvania, USA, *Why Recidivism Provisions in the Crime of Prostitution Equate to Gender-Based Inequality and Should be Removed*, available at: <http://cseinstitute.org/wp-content/uploads/2015/06/Why-Recidivism-Provisions-in-the-Crime-of-Prostitution-Equate-to-Gender-Based-Inequality-and-Should-be-Removed.pdf>.