**CEDAW 72nd Session**

**Written Statement of The Advocates for Human Rights for the**

**Draft General Recommendation on Trafficking in Women and Girls**

**in the Context of Global Migration**

1. February 2019
2. **INTRODUCTION**

The Advocates for Human Rights (The Advocates) commends the Committee on the Elimination of Discrimination against Women for convening this important discussion on global trafficking of women and girls in the context of migration and for inviting stakeholders to contribute to the Committee’s deliberation on this issue. We welcome the opportunity to contribute to the elaboration of the new CEDAW General Recommendation on trafficking of women and children in the context of migration. The following observations and recommendations are based on our experience in both documenting human trafficking and providing legal services to survivors of human trafficking victims in the United States.

The Advocates is a volunteer-based governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates holds special consultative status with the United Nations.

The Advocates is committed to ensuring protection for refugees around the world and provides legal services annually to more than 800 asylum seekers and youth survivors of labor trafficking in the Upper Midwest region of the United States. Recently, a growing number of women and girls fleeing violence in El Salvador, Honduras, and Guatemala have requested legal assistance from us in applying for asylum in the United States. Through the National Asylum Help Line, The Advocates also provides referrals for legal and social services throughout the United States, serving more than 1500 Central American women upon their release from family detention since 2015.

Since 2007, The Advocates has worked to document both sex and labor trafficking in the state of Minnesota. Unlike the federal model and most other states, Minnesota approaches human trafficking from a public health perspective. The program is housed in the Minnesota Department of Health and focuses on victim protection and trafficking prevention. At the request of the Minnesota Department of Health, The Advocates has developed statewide protocols to provide protection and services for victims. We recently released new *Labor Trafficking Protocol Guidelines* designed to help communities throughout Minnesota identify and respond to victims of labor trafficking, especially youth 24 years old and younger.[[1]](#footnote-1) The protocol guidelines are based on information collected from over 100 systems actors and trafficking experts throughout Minnesota, and reflect the needs of rural, suburban, and urban communities in addressing labor trafficking.

1. **FINDINGS REGARDING TRAFFICKING IN WOMEN AND GIRLS IN THE CONTEXT OF GLOBAL MIGRATION**

From our direct legal representation of clients from the Northern Triangle and other countries and work in the fields of immigration, sex trafficking and labor trafficking, we would like to share with the Committee our three main findings about trafficking in the context of global migration: (1) children are at high risk of sex trafficking, even when traveling in the company of adults; (2) even after arrival in the United States, individuals are at risk of labor trafficking; and (3) a victim-centered, needs-based response to sex and labor trafficked victims is critical and should replace the current rigid criminal justice response operating in the United States and other contexts.

1. **Children in particular are at risk of sex trafficking, even when traveling in the company of adults.**

Many of our clients who have experienced trafficking are children. Even where they are accompanied by an adult member of their family, those children are vulnerable to sex trafficking. For example, one young client entered the United States through Mexico with her mother. She reported that, as they prepared to cross the border, they were held at a smuggler’s home where photographs were taken that made the child believe she was being prepared to be sex trafficked.

Another client entered the U.S. as a 15-year-old girl with her father. A friend of the family coerced her into leaving her father’s home with him. They traveled to live several states away where the family friend groomed her to be sex-trafficked over the course of a year.

1. **Even after arrival in the United States, individuals are at risk of labor trafficking.**

Children and adults alike are vulnerable to labor trafficking after crossing into the United States. For example, one client hired a smuggler to help her travel to the United States with her young son. The smuggler posted their bond and took them across the country where they were held in a house against their will. Our client found other women and children being held at the house. Our client and the other women were forced to work in construction while her young son and other children were held in the house, unable to leave.

Another client entered the United States without inspection with her boyfriend. He brought her to live with his family and treated her well at first, but before long, he demanded that she pay him back $10,000 that he had to pay the smugglers to bring her into the country. He sexually assaulted her frequently, often several times a day. She got a cleaning job and paid the family $200-300 every week to cover her “debt.” Her boyfriend’s father told her, “No one is going to believe you. You don’t have a voice. Here you are nobody.” One day, her boyfriend took a knife and threatened to kill himself if she tried to leave and then began choking her. Our client escaped and called the police, but by the time they came, the family had fled.

A particular challenge with labor trafficking is that many workers do not know their rights or fear repercussions from their employer.[[2]](#footnote-2) In the case of labor trafficking, the victim’s income and livelihood is directly controlled by their trafficker, and coming forward threatens what stability and income these victims have.[[3]](#footnote-3) Additionally, due to a lack of public understanding of labor trafficking, when victims come forward, they often go unidentified as victims of trafficking.[[4]](#footnote-4) It is also common for traffickers to threaten foreign victims with deportation if they complain about wages of working conditions.[[5]](#footnote-5) As most victims do not know that they can receive legal status in the country for cooperating with police, they stay silent out of fear.

1. **The best response to trafficking is a victim-centered, trauma informed approach that provides survivors with legal protections and adequate support services.**

Many existing international and U.S. federal laws take a criminal-centered approach to trafficking focused on legal actions against traffickers.[[6]](#footnote-6) While traffickers must be held accountable, the victims cannot be forgotten. To help trafficked women and girls survive, heal, integrate into society and live a life free of exploitation, a victim-centered approach that provides survivors with legal protections and adequate support services is essential.

Support services must meet survivors’ *immediate and emergency* needs for housing, medical care and mental services, food, and connection with family, followed by meeting their ongoing needs for medical and mental health services, housing, and financial support. To secure existing protections and services survivors also often need legal advocacy and representative services, especially in the areas of employment, immigration, housing, and discrimination. Failure to meet these needs leaves survivors vulnerable to further exploitation and victimization as the only available means to secure their own and their children’s survival.

A particular challenge with labor trafficking is that many workers do not know their rights or fear repercussions from their employer.[[7]](#footnote-7) In the case of labor trafficking, the victim’s income and livelihood is directly controlled by their trafficker, and coming forward threatens what stability and income these victims have.[[8]](#footnote-8) Additionally, due to a lack of public understanding of labor trafficking, when victims come forward, they often go unidentified as victims of trafficking.[[9]](#footnote-9) It is also common for traffickers to threaten foreign victims with deportation if they complain about wages or working conditions.[[10]](#footnote-10) As most victims do not know that they can receive legal status in the country for cooperating with police, they stay silent out of fear.

1. **RECOMMENDATIONS**

The Advocates for Human Rights encourages the Committee to consider the following recommendations when drafting the Committee’s general recommendation on trafficking.

LEGAL FRAMEWORK

States should:

● Ensure that their laws articulate, reflect, and support a commitment to ending both sex and labor trafficking.

● Review laws, policies, programs, and agency practices to ensure that they are working towards the prevention, identification, and response to human trafficking in women and girls wherever it is relevant.

● Ensure that penalties for labor violations are sufficient to deter exploitative practices.

● Take action to encourage all levels of government to connect business practices and licensing processes to labor standards, including accountability for labor violations of subcontractors

SUPPORT AND SERVICES FOR VICTIMS

States should:

● Ensure that victims have access to victim-centered, trauma informed services to address their basic needs and the effects of trafficking regardless of immigration status, criminal history, or cooperation with an investigation or prosecution.

● Invest long-term in organizations and agencies that provide housing so that victims have access to different types of housing that respond to their specific needs as victims of trafficking. The different housing types should include, at a minimum: emergency shelter, transitional housing, and long-term housing or financial support for long-term housing. Policy makers should ensure that the funding allocated for labor trafficking victims does not reduce the funding that these organizations and agencies receive to support the communities that they currently serve.

● Establish policies regarding the timely review and certification of trafficking-related immigration visa applications for non-citizen trafficking victims.

● Establish policies to minimize the prosecution of crimes committed as a direct result of being a trafficking victim.

TRAINING AND AWARENESS RAISING ABOUT TRAFFICKING

States should:

● Implement mandatory training on the basics of labor trafficking for all frontline staff who interact with high-risk populations.

● Require advanced human trafficking training for staff and contracted service providers likely to interact with trafficked children and youth, including investigators and prosecutors of labor trafficking crimes.

● Provide resources for training and investigation to law enforcement agencies on identifying and responding to both sex and labor trafficking.

● Continue training for labor standards investigators to use their authority to conduct in-person screenings and proactive investigations.

● Provide training on labor trafficking under federal and state law to community organizations, especially those that routinely deal with workers, workplace issues, exploitation, or trafficking.

IDENTIFICATION AND PREVENTION

States should:

● Develop a model screening tool that can be adapted for use by different sectors.

● Allocate funding to agencies that investigate labor and employment law violations to support proactive investigations in high-risk industries.

● Develop anti-labor trafficking resources to share with at-risk women and girls

● Incorporate labor trafficking into national anti-trafficking campaigns.

● Create a central registry of human trafficking data collected.

The Advocates for Human Rights thanks the CEDAW Committee for this opportunity to provide our observations and recommendations on trafficking in women and girls in the context of global migration and to contribute towards the Committee’s General Recommendation on trafficking.

Contact: Jennifer Prestholdt, Deputy Director, The Advocates for Human Rights

[jprestholdt@advrights.org](mailto:jprestholdt@advrights.org) 612-709-2794

1. *Labor Trafficking Protocol Guidelines: Identifying and Responding to Victims of Labor Trafficking 24 Years Old and Under*, The Advocates for Human Rights, January 2019, accessed February 2019 http://www.theadvocatesforhumanrights.org/uploads/labor\_trafficking\_protocol\_guidelines\_final.pdf [↑](#footnote-ref-1)
2. *Asking the Right Questions: A Human Rights Approach to Ending Trafficking and Exploitation in the Workplace*, The Advocates for Human Rights, September 2016, accessed November 12, 2018, https://www.theadvocatesforhumanrights.org/uploads/asking\_the\_right\_questions\_2.pdf. [↑](#footnote-ref-2)
3. Ibid. [↑](#footnote-ref-3)
4. Ibid. [↑](#footnote-ref-4)
5. Ibid. [↑](#footnote-ref-5)
6. At the federal level, the U.S. enacted the Trafficking Victims Protection Act (TVPA) in 2000. TVPA criminalizes “procuring and subjecting another human being to peonage [...], slavery, involuntary servitude, or forced labor;” and gives some provision for social service support and legal benefits for survivors. [↑](#footnote-ref-6)
7. *Asking the Right Questions: A Human Rights Approach to Ending Trafficking and Exploitation in the Workplace*, The Advocates for Human Rights, September 2016, accessed November 12, 2018, https://www.theadvocatesforhumanrights.org/uploads/asking\_the\_right\_questions\_2.pdf. [↑](#footnote-ref-7)
8. Ibid. [↑](#footnote-ref-8)
9. Ibid. [↑](#footnote-ref-9)
10. Ibid. [↑](#footnote-ref-10)