**CERMI Women’s Foundation**

**Contribution to the CEDAW Committee draft General Recommendation No. 38 on trafficking of women and girls in the context of global migration**

15th May 2020

1 Introduction

CERMI Women’s Foundation, or FCM, is a Spanish non-profit organisation set up in 2014 by CERMI, the umbrella body for the disability movement in Spain. FCM’s goal is to advocate for and exercise the full enjoyment of the human rights of women and girls with disabilities. FCM’s benchmarks are the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and Convention for the Elimination of all Forms of Discrimination against Women (CEDAW) from an intersectional, disability- and gender-based approach. FCM’s purpose is to fight back against multiple discrimination and foster the full development, advancement and empowerment of women and girls with disabilities.

FCM welcomes the opportunity to present its contribution to the drafting of the CEDAW Committee General Recommendation No 38 on trafficking of women and girls in the context of global migration, and submits these proposals to ensure that the 600 million women and girls who have a disability are included in the recommendation, thus making it fully inclusive and leaving no-one behind.

FCM, in line with the International Disability Alliance and the contributions made by other organizations of women with disabilities, welcomes the fact that the CEDAW Committee, in the draft GR, has recognised women with disabilities as a group which is at higher risk of being trafficked. We particularly welcome paragraph 25 on disaggregated data collection by disability, the various references to groups of women facing multiple and intersectional forms of

discrimination, such as women and girls with disabilities, and paragraph 82 on the accessibility of the justice system.

However, the document lacks specific references to the unique challenges faced by women and girls with disabilities and to measures needed to protect their rights.

2 Higher risk of trafficking faced by women and girls with disabilities

Recent studies and reports1 indicate that women and girls with disabilities are at a higher risk of exploitation and may be more at risk of falling victim to human trafficking, including in the context of global migration. These studies and reports present evidence of the direct link between some forms of disability and different patterns of trafficking, such as forced begging and exploitative labour practices2.

Women and girls with disabilities remain invisible in international instruments prohibiting trafficking in persons, such as the United Nations Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Neither document contains references to disability.

We call on the Committee to further acknowledge and address the specific rights and perspectives of women and girls with disabilities. The GR should ensure that all women and girls with disabilities are equally and appropriately protected against trafficking in the context of migration, in line with the CRPD, CEDAW and the Sustainable Development Goals (Target 5.2).

3 Proposed amendments to the draft General Recommendation

In particular, we encourage the Committee to address the following issues in its draft GR and take on board the following amendments (text highlighted in bold and underlined is to be added and struck-through text is to be deleted):

IV. Root causes and discouraging the demand that fosters exploitation through trafficking

1) Paragraph 12: “The Committee identifies the higher risk faced by women and girls subjected to multiple and intersecting forms of discrimination, particularly women and girls in poverty, living in remote areas, forcibly displaced women, girls and women and girl migrants and women and girls with disabilities.”

2) Paragraph 18: “States parties are required to proactively identify as rights-bearers women and girls within the jurisdiction of the State party who are marginalized, being subjected to multiple forms of discrimination, including non-citizen, migrant, refugee, asylum-seeking and stateless women and girls, women and girls with an irregular migration status, and women and girls who are part of the most excluded groups in society, such as women and girls with disabilities.”

Rationale behind amendment: women and girls with disabilities face multiple and intersectional discrimination in all areas of life which leads to, among others, socio-economic disadvantages, social isolation, violence against women, forced sterilisation and abortion, lack of access to community services, low quality housing, institutionalisation, inadequate healthcare and denial of the opportunity to contribute and engage actively in society. Women with disabilities are also between two to five times more likely to fall victim to violence. Traffickers may particularly target women and girls with intellectual disabilities3, who are often not made aware of their rights and are not trained to identify situations of violence and exploitation.

3) Paragraph 24: “Women and girls living in rural and remote areas, indigenous women and girls, women and girls with disabilities and those with an irregular migration status, as well as stateless women and girls and those at risk of statelessness who experience social, political and economic exclusion face specific risks of being trafficked”.

Rationale behind amendment: low access to education and work, and high risk of poverty, make women and girls with disabilities more likely to be targeted by trafficking networks. The CRPD Committee expressed concerns that women and

girls living in poverty were often at risk of exploitation and abuse, including begging and human trafficking for labour and sexual exploitation4. Deprivation of liberty, segregation and institutionalisation of women and girls with disabilities highly increases their risks of being trafficked.

4) Paragraph 25.b: we suggest adding that ‘State parties should collect specific data on trafficking and exploitation of women and girls with disabilities and on disability as a result of violence suffered through trafficking, sexual exploitation and exploitation”.

5) Paragraph 25.f.ii: “include in the design those affected by anti-trafficking policies, including trafficking victims and women and girls vulnerable to trafficking and exposed to multiple and intersectional forms of discrimination.”

6) Paragraph 25.f.: we suggest adding “Harmonisation of national laws on trafficking in persons to ensure that the definition of trafficking specifically covers women and girls with disabilities, by inserting specific references to the groups at higher risk such as children, girls and women with disabilities”.

7) Paragraph 26.b: “Providing women and girls in situations of disadvantage with access to basic accessible and inclusive mainstream services, including education, information, health care, justice and employment opportunities”

Rationale behind amendment: lack of accessibility and failure to provide adequate safeguards, including reasonable accommodation and support measures, increase the risk of women and girls with disabilities being subjected to trafficking and exploitation, and of not being granted support as victims. This may be the case in global migration, where support provided to victims of humanitarian crisis and trafficking are not accessible to women and girls with disabilities.

8) Paragraph 26.d: “Stepping up nationwide public awareness-raising campaigns, particularly in rural communities and amongst women and girls from excluded groups, on their rights, the risk of human trafficking, the methods employed by traffickers and measures to reduce these risks;”

Rationale behind proposed amendment: the lack of awareness of women and girls with disabilities concerning their rights and what constitutes exploitation and its endangerments, leads to their inability to self-identity as victims and makes it easier for traffickers to manipulate them.

9) Paragraph 27: “States should also pay specific attention to women and girls acquiring disability as a consequence of trafficking”.

10) Paragraph 27: we suggest adding “training all stakeholders involved in fighting trafficking, including those involved in early detection, protection and referral of women who survived gender-based violence, female genital mutilation, and victims of trafficking in persons, on women and disability rights”.

11) Paragraph 29.c: “Has as its objective to combat trafficking for purposes of, among others, child and forced marriage, debt bondage, serfdom, begging, forced or compulsory labour, slavery and sexual exploitation”.

12) Paragraph 29.e: “Includes specific provisions addressing the prevention of trafficking in women and girls and the economic and physical and psychological rehabilitation of victims, including those who acquired a disability because of trafficking;”

13) Paragraph 29.g: “Establishes, on an equal basis for women migrants, including irregular migrants, facilitated access to accessible and inclusive justice mechanisms to resolve complaints of exploitation and abuse;”

14) Paragraph 29: we suggest adding “mainstream the voices and perspectives of the most excluded groups of women and girls, such as women and girls with disabilities and ensure their rights to equality and non-discrimination, education, work and employment, equal recognition before the law and legal capacity, liberty and security, living independently and being included in the community, and an adequate standard of living, to avoid placing them at higher risks of trafficking and exploitation.”

15) Paragraph 29: we suggest adding “adopting stiffer sanctions for traffickers exploiting women and girls because of their disability (aggravating circumstance).”

16) Paragraph 31: we suggest including “mainstreams the perspectives and voices of women and girls who are amongst the most excluded in society and face higher risks of human trafficking, such as women and girls with disabilities”.

17) Paragraph 32: “The expertise and voices of women and girl victims of trafficking must be included, with a particular focus on the perspectives of women and girls from the most excluded groups, …”

Rationale behind amendment: the CRPD places an obligation on State parties and other relevant stakeholders to involve and consult with women and girls with disabilities and their representative organisations in the development, implementation and monitoring of prevention and response measures and programmes.

18) Paragraph 42.e: “Adopt a comprehensive gender-sensitive and rights-based migration and refugee policy that takes into consideration the multiple and intersectional discrimination, abuse and exploitation faced by the most excluded groups of women and girls, such as women and girls with disabilities the vulnerability of displaced women to trafficking;”

19) Paragraph 42.f: “Raise awareness among displaced women and girls about all forms of trafficking and their rights and means of redress;”

20) Paragraph 45.a: “Establish mechanisms for the identification of victims of trafficking within the asylum procedure as well as referral mechanisms to ensure that asylum claims are assessed in an age, disability and gender-sensitive procedure in order to respond to the specific protection needs of trafficked women and girls;”

V. Victim identification, assistance and protection

21) Paragraph 68: include a disability sensitive approach in (a) and (b)iii;

22) Paragraph 78: include a disability sensitive approach in (c) and (d);

23) Paragraph 78: we suggest including “Ensure that services for victims of trafficking are inclusive and accessible, paying particular attention to the specific needs of women and girls with disabilities.”

24) Paragraph 72(g): “In consultation with women civil society organizations, and other civil society organisations such as organisations of women with disabilities, develop and implement standard operating procedures for these shelters which ensure consistent and high level service provision for all victims;”

25) Paragraph 72(q): “Adopt targeted laws, policies and programmes to ensure equal rights for women belonging to disadvantaged and marginalized groups, such as forcibly displaced women and migrant women, and women with disabilities, by ensuring that they receive adequate assistance, and that they benefit from integration policies as well as family reunification measures.”

VI. Victims’ access to justice

26) Paragraph 80: “The complexity of proceedings, lack of special court procedures and inaccessibility of the justice system to accommodate victims’ needs".

27) Paragraph 81: “The Committee has documented many examples of the negative impact of intersecting forms of discrimination on access to justice, including ineffective remedies, for specific groups of women, such as women and girls with disabilities, …”

28) Paragraph 83: “Women must have access to education and information in accessible formats about their rights and the remedies that are available and how to gain access to them.”

29) Paragraph 84.c: “Ensure that, in administrative and judicial proceedings, including detention and expulsion proceedings, trafficking victims are guaranteed due process before the courts and provided with procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages;”

30) Paragraph 84.f: “Repeal or amend laws that prevent any woman, including non-citizen women and women deprived of their legal capacity, from using the courts and other systems of redress”.

31) Paragraph 84.g: “Particularly for non-citizen women, provide effective channels for seeking protection and redress for violations of their rights by

creating adequate conditions to bring complaints, in a language that they can understand and in other accessible means of communication, …”.

32) Paragraph 96(b): “Ensure that trafficked women are provided with timely, accessible and comprehensive information about their right to access legal aid, compensation, and remedies in a language and manner that they can understand, regardless of their residence status;”

Rationale behind amendments: states should ensure that women and girls with disabilities can access justice on an equal basis with others. They should ensure full accessibility within the justice system.

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