**Input for the Committee on the Elimination of Discrimination against Women General recommendation on Trafficking in Women and Girls in the Context of Global Migration**

**About ECPAT UK**

*ECPAT UK is a leading UK-based children’s rights organisation campaigning and advocating for the right of children to be protected from threats of trafficking and transnational child sexual abuse. We have a long history of campaigning against child trafficking and exploitation in the UK, having produced the first research into trafficking of children in the UK in 2001. An on-going programme of research, training, youth participation and advocacy informs our campaigning efforts. ECPAT UK has been instrumental in raising awareness of the plight of children trafficked into the UK for all forms of exploitation and advocating for changes in policy and legislation to improve the UK’s response to this abuse. We also work directly with young victims of trafficking, which provides insight into the experiences of these children and the processes/systems that they encounter. ECPAT UK is part of the ECPAT International network, which is present in 93 countries, working to end child sexual exploitation.*

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The following are proposed ammendments to the text of the General Recommendation on trafficking in women and girls in the context of global migration currently being elaborated by the UN Committee on the Elimination of Discrimination against Women (CEDAW) in the context of the call inviting all interested parties to submit comments in writing on the draft.

**II. Objective and scope**

II 6. Girls have additional vulnerability due to the intersecting characteristics of gender and status as children. Children are inherently vulnerable and a group that needs special protection as outlined in the UN Convention on the Rights of the Child. This change is required to ensure child-specific and child-centred responses that fulfil States’ obligations under international standards.

**III. Legal framework**

III 10: It is important to emphasise that Girls in migration are particularly vulnerable to being trafficked due to their status as children who cannot give informed consent to their own exploitation.[[1]](#footnote-1) This change is required as the definition of and vulnerability to trafficking is different for adult women, who require the ‘means’ stage to be present – “ the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”. As children, the ‘means’ stage is not required in order for them to be victims of trafficking, per the Palermo Protocol.

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

IV e. 21: It is important to include specifically early, child and forced marriage, female genital mutilation. ECPAT UK has observed through its direct work with girls and young women who have been victims of trafficking in the context of global migration that a significant number are victims of female genital mutilation or cutting and child marriage, among the other forms of gender-based violence listed in this paragraph and we believe they should be directly cited in the General Comment.

IV e. 22: In addition to the push factors listed, in our direct work with female victims of trafficking, ECPAT UK has observed a clear trend of child victims of trafficking running away or fleeing from early, child and forced marriage, which made them vulnerable or led directly to their trafficking.

IV e. 25 b) ECPAT UK recommends that data on victims of trafficking should capture and analyse the multiple forms of exploitation faced by individual victims. It is well established that many victims are also subjected to secondary or even tertiary forms of exploitation, in addition to the form of exploitation formally identified.

*IV e. 25 c. xi. ECPAT UK recommends an additional line on data collected on impact following identification of child victims in territorties of member states. Given our experience with child victims in the United Kingdom, long term outcomes for most children are very poor, many transition into adulhood in immigration precarity, with limited access to mental health services and limited educational and training opportunities which leave many at significant risk of being subsequetly re-trafficked.*

IV e. 25 f. v: ECPAT UK recommends an addition to ensure children’s best interests are the primary consideration and they achieve a durable solution as they transition into adulthood. International anti-trafficking jurisprudence contains provision to exemplify the special case of children such as the EU Anti-Trafficking Directive which recognises in Article 14 and 16 the need for Member States to take the necessary measures with a view to finding a durable solution based on an individual assessment of the best interests of the child. As stated by the UN Committee on the Rights of the Child, Joint General Comment No. 22 (para 32(j)) a durable solution to mean ‘[a] comprehensive, secure and sustainable solution is one that, to the greatest extent possible, caters to the long-term best interests and welfare of the child and is sustainable and secure from that perspective. The outcome should aim to ensure that the child is able to develop into adulthood, in an environment that will meet his or her needs and fulfil his or her rights as defined by the Convention on the Rights of the Child’.[[2]](#footnote-2) Child victims of trafficking significantly struggle to qualify for grants of asylum, and it is in line with a state’s duties to provide a solutions to that child if it is in their best interest to remain in the territory to be provided with a form of ‘best interest immigration leave’ which is not limited up until the age of 18 but seeks to provide a solution in the long term to enable meaningful recovery for that child and the opportunity to transition into adulthood in a way which fulfil their rights.

IV e. 29 c: ECPAT UK recommends the incorporation of exploitation for criminality is identified in wording. An increasing number is identified each year in the UK, including among girls and women victims[[3]](#footnote-3), as awareness of this exploitation type increases. Including this exploitation type will help reduce gender stereotyping in support and responses to victims.

IV e. 32 a: In ECPAT UK’s recommends the incorporation of c compensation received for victims when they provide their time and expertise[[4]](#footnote-4) In ECPAT UK’s years’ of experience in youth participation in anti-trafficking work, we have identified the need to build victims’ capacity to contribute to work to prevent and combat trafficking, address power dynamics and financially compensate victims for their time in order for victim participation to be meaningful, ethical and non-exploitative.

IV f. 39: ECPAT UK recommends an addition of the provision to highlight the need for children to be supported to access a durable solution, which is sustainable and secure in the long-term, and their best interests are a primary consideration in reaching this solution[[5]](#footnote-5). Trafficking in women and girls breaches specific provisions of the Convention and is there International anti-trafficking jurisprudence contains provision to exemplify the special case of children such as the EU Anti-Trafficking Directive which recognises in Article 14 and 16 the need for Member States to take the necessary measures with a view to finding a durable solution based on an individual assessment of the best interests of the child. As stated by the UN Committee on the Rights of the Child, Joint General Comment No. 22 (para 32(j)) a durable solution to mean ‘[a] comprehensive, secure and sustainable solution is one that, to the greatest extent possible, caters to the long-term best interests and welfare of the child and is sustainable and secure from that perspective. The outcome should aim to ensure that the child is able to develop into adulthood, in an environment that will meet his or her needs and fulfil his or her rights as defined by the Convention on the Rights of the Child’.[[6]](#footnote-6) Child victims of trafficking significantly struggle to qualify for grants of asylum, and it is in line with a state’s duties to provide a solutions to that child if it is in their best interest to remain in the territory to be provided with a form of ‘best interest immigration leave’ which is not limited up until the age of 18 but seeks to provide a solution in the long term to enable meaningful recovery for that child and the opportunity to transition into adulthood in a way which fulfil their rights.

IV f. 45 e: ECPAT UK recommends that the list of harmful practices is expanded to include ‘re-trafficking’ as it is well established that State immigration policies contribute to the re-trafficking of victims who are left destitute, in immigration limbo or fearful of detention and removal to countries of origin where they face risks of harm.Risk of detention can prevent victims from coming forward to authorities, particularly girls and women who face vulnerability to sexual abuse by State actors both in transit and destination countries, and traffickers in source, transit and destination countries.

In our direct work with girls and young women victims of trafficking, ECPAT UK has observed a worrying trend among young female victims trafficked who due to uncertainty around their immigration status in countries where victims are identified, some intentionally choose to disengage from statutory services at 18 because of fear of detention and forced removal, making them more likely to end up working in exploitative conditions or even reach out to underground networks[[7]](#footnote-7). The uncertainty and delays that victims of trafficking face in asylum processes significantly increase vulnerability to re-trafficking.

IV g. 50: ECPAT UK recommend the inclusion of a statement regarding the issue of women and girl migrants identified as victims of trafficking who are encouraged to enter care professions due to gender stereotyping among victim support services. Through our direct work with girls and young women who have been victims of trafficking, ECPAT UK has observed gender stereotyping in the promotion of employment opportunities for victims of trafficking by professionals tasked with their care. For example, female victims are encouraged and provided opportunities to enter these very same sectors that expose women and girls to exploitation risks, i.e. the care sector. This puts female victims of trafficking at risk of re-trafficking and/or re-traumatisation if their employment experience mirrors their experience of exploitation.

**V. Victim identification, assistance and protection**

V a. 67: ECPAT UK recommends expanding the list of barriers for migrant victims of trafficking accessing healthcare to include the cost of healthcare which prevents them from accessing medical help.

V a. 72 d: ECPAT UK reiterates the need to establish a firewall between healthcare, education, social services and immigration enforcement due to the well established risks to migrant victims of trafficking of arrest, prosecution, detention and removal for immigration offences. For this reason we recommend the explecit inclusion of wording to recommend the establishment of a firewall between immigration enforcement and all care and support services[[8]](#footnote-8).

V a. 72 l: ECPAT UK recommends the inclusion of wording on the establishment of best interests decision making processes for children[[9]](#footnote-9);With regard to girl migrants who are victims of trafficking[[10]](#footnote-10), ECPAT UK recommends the inclusion of child specific language with regards to individualised support. Particularly the creation of a formal decision making process to determine a child’s best internerst as a primary consideration in line with international obligations under the General Comment 14 to the UNCRC[[11]](#footnote-11). This is especially important in support for girls transitioning to adulthood, who may have additional needs but, as in the UK, are sometimes forced into destitution after being discharged from services.[[12]](#footnote-12)

V a. 76: ECPAT recommend the specific inclusion of wording for children to access an indefinite period in line with their best interests to provide a durable solution[[13]](#footnote-13), In order to fulfil States’ obligations to girl and young women victims of trafficking who are children, ECPAT UK recommendsensuring the length of time for a residence permit is not constrained to a limit per obligations to provide children with a durable solution based on their best interests as a primary consideration[[14]](#footnote-14).

VI. b. 96 e: ECPAT UK recommends the explicit inclusion of wording regarding the altering of victims of trafficking eligibility for social assistance payments. ECPAT UK has observed through its direct work with girl and young women victims of trafficking receiving compensation may be vulnerable to exploitation or coercive control by those who abuse their vulnerability, including intimate partners and/or traffickers. As receipt of compensation may disqualify victims from receiving social assistance payments, loss or theft of compensation payments to traffickers or abusers can leave women destitute. Compensation as a victim of crime should have no impact on social assistance received by victims.

1. United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (A/RES/55/25) (2000): [↑](#footnote-ref-1)
2. UN Committee on the Rights of the Child, Joint General Comment No. 22 (para 32(j)) [↑](#footnote-ref-2)
3. #  UK Home Office (2020) *National Referral Mechanism statistics UK: End of year summary 2019,* <https://www.gov.uk/government/statistics/national-referral-mechanism-statistics-uk-end-of-year-summary-2019>

 [↑](#footnote-ref-3)
4. General recommendation No. 28 (2010) (CEDA W/C/GC/28), para. 27. [↑](#footnote-ref-4)
5. UN Committee on the Rights of the Child, Joint General Comment No. 22 (para 32(j)) [↑](#footnote-ref-5)
6. UN Committee on the Rights of the Child, Joint General Comment No. 22 (para 32(j)) [↑](#footnote-ref-6)
7. Sigona, N, Chase, E, Humphris, R (2017) Becoming Adult Project: protecting the ‘best interest’ of the child in transition to adulthood: <https://becomingadultproject.files.wordpress.com/2017/12/ba-brief-3-low-res.pdf> [↑](#footnote-ref-7)
8. UN Committee on the Rights of the Child (CRC) and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) Joint general comment No. 3 (2017) and No.22 (2017) <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11> [↑](#footnote-ref-8)
9. UN Committee on the Rights of the Child, Joint General Comment No. 22 (para 32(j)) [↑](#footnote-ref-9)
10. General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 21 [↑](#footnote-ref-10)
11. UN Committee on the Rights of the Child, Joint General Comment No. 14 [↑](#footnote-ref-11)
12. Coram Children’s Legal Centre. (2013). *Growing Up in A Hostile Environment*. Available at: <https://www.childrenslegalcentre.com/wp-content/uploads/2013/11/Hostile_Environment_Full_Report_Final.pdf>. [↑](#footnote-ref-12)
13. UN Committee on the Rights of the Child, Joint General Comment No. 22 (para 32(j)) [↑](#footnote-ref-13)
14. UN Committee on the Rights of the Child, Joint General Comment No. 22 (para 32(j)) [↑](#footnote-ref-14)