**Comments on the draft CEDAW General Recommendation on trafficking in women and girls in the context of global migration**

By Global Alliance Against Traffic in Women

The Global Alliance Against Traffic in Women (GAATW) is a network of more than 80 NGOs from Africa, Asia, Europe, and the Americas that advocates for the rights of migrants and trafficked persons.

GAATW welcomes the draft General Recommendation and, in particular, the recommendations to states to revise their labour migration policies in a way that would protect migrant women’s rights and prevent exploitation and trafficking. We also highly appreciate the recommendation to states to introduce labour protections and encourage self-organisation of women in the unrecognised and unmonitored sectors, among others. We believe the draft GR is a comprehensive document that will provide important guidance to states to protect the rights of migrant and trafficked women, as well as a tool for civil society to hold states accountable.

We thank the Committee for this opportunity to provide comments on the draft GR and we outline these below (strikethrough text is a suggested deletion and red text is a suggested addition).

**Para 8:** Its examination of States parties’ reports reveal that the abuse of a position of vulnerability~~,~~ and the abuse of power ~~and the culture of impunity~~ are the most common means used to commit the trafficking crime,

Reason: “Culture of impunity” is not a recognised means of trafficking in the UN Trafficking Protocol. It does not make logical sense in the sentence: one does not commit a crime **by means of** impunity.

**Para 9:** The ~~2010~~ 2002 Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1) elaborated by the Office of the United Nations High Commissioner for Human Rights and the 2010 Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking

**Section IV:** IV Root causes ~~and discouraging the demand that fosters exploitation through trafficking~~

Reason: “Demand” is a root cause of trafficking (see, for example, Recommended Principles and Guidelines, Guideline 7, p. 9, “Strategies aimed at preventing trafficking should take into account demand as a root cause.”) and should be subsumed under root causes, not placed alongside them.

**Para 12:** The Committee is particularly concerned regarding ~~the~~ several recent trends of trafficking in women and girls ~~as well as the role of technology in the recruitment of victims.~~

(Alternatively: … as well as the role of technology, especially social media and chat apps, in the recruitment of victims.)

Reason: Without a reference or an explanation, the point about the role of technology in the recruitment of victims is incomplete. What technology, how is it used to recruit victims?

**e. Root causes of trafficking in women and girls ~~and discouraging the demand that fosters their exploitation through trafficking~~**

Reason: As above – demand is a root cause.

**Para 20:** including the demand for sexual exploitation.~~40~~

Reason: The provided reference does not support the point made.

**Para 22:** Facing such circumstances, some women and girls, who often lack access to sustainable livelihoods ~~and/or have no access to information on trafficking and how traffickers operate~~, are susceptible to trafficking ~~being lured by~~ ~~promises of a means of escape from impoverished circumstances.~~

Reason: People are not susceptible to trafficking because they are not aware of trafficking or the way traffickers operate *per se*. They are susceptible to trafficking most of all because they have very limited options of making a living (as the first part of the sentence correctly points out); information about trafficking does not change that. “Being lured” is sensationalist language that reinforces notions of women as gullible and naïve. It furthermore implies that trafficking is the result of some people “luring” women and shifts attention away from the otherwise well described root causes, and responsibility away from states’ failure to ensure decent work and social protections for all.

~~Additional push factors~~  Other factors that normalise trafficking include persisting norms and stereotypes regarding male domination, the need to assert male control or power and enforce gender roles, male sexual entitlement

Reason: Stereotypes around male domination, etc. are not *push* factors (but are factors).

and coercion and control ~~which drive the demand for the gender-stereotyped exploitation of trafficking victims, as well as the lure of massive financial gains with few risks due to the impunity enjoyed by perpetrators.~~

Reason: This part of the sentence is unclear and should best be removed (note that, again, the “lure of financial gains” and impunity are not push factors). Alternatively, the sentence should be edited for clarity and to avoid sensationalistic language.

Insertion of new para:

25. Demand in the context of trafficking is often shaped by discriminatory attitudes (including cultural attitudes) and beliefs. Women may be preferred for certain forms of exploitation because they are perceived as weak and less likely to assert themselves or to claim the rights to which they are entitled. Certain ethnic or racial groups may be targeted for trafficking-related exploitation on the basis of racist or culturally discriminatory assumptions relating to, for example, their sexuality, servility or work capacity. Furthermore, research confirms that demand for the labour or services of trafficked persons is absent or markedly lower where workers are organized and where labour standards for wages, working hours and conditions, and health and safety, are monitored and enforced. Rights-based strategies to address demand should focus on addressing discriminatory attitudes and beliefs, particularly those directed against women and migrants, and aim to secure adequate labour protection – including through properly monitored regulatory frameworks – for all persons, including migrants and those working in the informal economy.[[1]](#footnote-1)

Reason: Article 9, para. 5 of the UN Trafficking Protocol places an obligation on states “to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.” Yet, multiple commentators have noted that this provision is not well understood and has created confusion among those tasked with anti-trafficking policy and implementation.[[2]](#footnote-2) This confusion is also evident in the draft General Recommendation, in the lack of elaboration of what the demand that fosters exploitation is, and the lack of references to support the recommendations on reducing demand.

We see the value of the General Recommendation in providing **clear guidance** to states in implementing their obligations to reduce trafficking under CEDAW. Therefore, it may be best to remove all references to reducing demand. Alternatively, we encourage the Committee to focus on the fact that “the demand that fosters exploitation leading to trafficking” exists only in sectors that rely on manual, physical labour, where there are low or no standards for wages and working conditions, or, if these standards exist, they are not regularly monitored and enforced (such as in sex work, domestic work, agriculture, construction, fisheries, and so on). The labour in these sectors is often provided by people with low education or socio-economic status, especially women and migrants.

The Committee should, at the very least, add a paragraph outlining what “demand” is. The proposed text above, taken entirely from the Commentary to the Recommended Principles and Guidelines, emphasises the two central elements contributing to the demand that fosters exploitation: social attitudes that discriminate and devalue, and thus render exploitable, certain **groups of people** (e.g. women and migrants) and certain **types of work** (low-wage, informal, unorganised). In general, changes in social attitudes should be sought more through education than criminalisation.

**Para 25:**

1. Enhancing the collection, analysis and dissemination of comprehensive and uniform data …

Reason: different agencies within a country, as well as different governments, collect data on trafficking differently which makes meaningful national or international analyses impossible. The collected data must be uniform.

f) i. A strategic evidence-based response

Reason: It is important to stress that one of the objectives of data collection is to build evidence to inform policies and responses.

**Para 26:** g) Discouraging the demand that fosters all forms of exploitation of persons, especially women and children, that leads to human trafficking by:

Reason: As above, demand is a root cause and should be placed under, not next to, root causes, as letter g) and not para 27.

i. Adopting or strengthening legislative and other measures to implement prevention techniques through educational, social or cultural measures that foster a culture of respect towards the human and labour worth of women, in particular, women who are migrants, with low education, or members of ethnic and racial minorities or other disadvantaged groups; ~~including in particular those targeted toward potential users of trafficked goods or services~~

Reason: See above (Commentary): 1) the demand that fosters exploitation is enabled by racist, misogynistic and other social attitudes that devalue women and other groups (and the labour they provide); the change of such social attitudes requires concerted efforts by states, in particular through education; 2) “trafficked goods and services” means something other than the intended meaning.

~~b. Where applicable, instituting penal legislation to sanction the users of goods and services that result from trafficking in persons;~~

Reason: Even with the provision of “where applicable”, this recommendation is overly broad. People are trafficked in order to pick fruits and vegetables, collect fish, build bridges, houses and highways, care for children and the elderly and provide sexual services. It is impractical to sanction the users of these products and services. Furthermore, there is no evidence that this legal provision has had any meaningful impact in the countries where it has been introduced. A report by the European Commission evaluating the measure in EU countries[[3]](#footnote-3) show that it is not well understood, is applied unevenly across the Union, and has led to very few investigations and convictions. The guidance provided by the CEDAW committee in this General Recommendation should be clear, actionable, and based on good practice.

~~d. Investigating, prosecuting and convicting all perpetrators involved in the trafficking of persons, including those on the demand side~~

Reason: Without a prior explanation of what demand is, how it works in relation to trafficking, and who “those on the demand side” are (note that the above-listed researches on demand point out that trafficked persons are part of the “demand side” too), “including those on the demand side” does not provide sufficiently clear guidance to states. Without “those on the demand side”, the recommendation is unnecessary, as the perpetrators of trafficking in persons are already criminalised.

Given the explanations of “demand” above, the Committee should consider moving or repeating other recommendations to reduce demand here, such as Para 56 b and Para 58 a and f (see also below).

**Para 31**

e) Calls for the establishment of permanent bodies at different levels of government to coordinate and monitor…

**Para 42**

1. Cease all conflicts, promote peaceful and just societies, and reduce investment in military spending, in order to prevent future conflicts;

Reason: The primary root cause of women’s and girls’ vulnerability to trafficking in the context of forced displacement is the existence of conflicts. The vulnerability to trafficking will not be effectively reduced as long as conflicts continue.

**Para 56**

1. Counter stereotypical attitudes and discrimination towards women migrants by:
2. providing sensitivity training for … health-care providers.145

ii. ensuring that public information about migration and migrants is factually correct and fosters open and inclusive societies while discouraging xenophobia and violence against migrants. Publicly condemn media and public figures that provide incorrect or misleading information about migration and migrants or engage in hate speech and strengthen the institutions tasked with monitoring and punishing such misinformation and hate speech.

Reason: The exploitation of migrants is enabled by negative and discriminatory attitudes towards them as poor, desperate, and willing to accept any sort of employment (see also above under Demand). A study by ILO found that an overwhelming number of nationals in four Asian countries think that migrants should not have the same labour rights or receive the same wages as nationals (and these lower standards can reach the level of exploitation).[[4]](#footnote-4) These attitudes are enabled and exacerbated by xenophobic speech by public figures and inaccurate/misleading media reporting and, in turn, influence state policies that enable exploitation and discrimination of migrants.[[5]](#footnote-5)

**Para 58 c**: Recognize in law the care sectors as legitimate areas of paid work ~~by addressing gender segregated labour markets and human trafficking into the care economy~~;

Reason: It is not clear how addressing trafficking in the care economy will lead to recognition of the care sector or how states should address gender-segregated labour markets. The second part of the sentence is unnecessary.

**Para 63**: Adequately resource, increase the number, and strengthen the capacity and mandate of labour inspectors to proactively and systematically…

Reason: Or other language that recommends to states to ensure the appropriate number of labour inspectors as recommended by ILO. The current number of labour inspectors in many countries is well below.

**Para 64**: take into account the root causes of ~~real~~ migration patterns

Reason: Or rephrase to clarify what was meant.

**Para 66**: … private residences, isolated factories and farms, and brothels ~~and private apartments used for commercial sexual exploitation~~.

Reason: It is not necessary to specify for what kind of exploitation private apartments are used when this is not done for the other listed locations. It is also unclear what the difference, if any, is between private residences and private apartments.

**Para 68 (j)**: Empower communities through support and consultation to build strong allies for anti-trafficking efforts, including ~~faith-based actors~~ formal or informal women’s collectives, who could provide critical information about trafficked women … at locations and among groups where there may be trafficked women …

Reason: The inclusion of faith-based actors here suggests that they are currently excluded, which is not true – in fact, many organisations working in the anti-trafficking field are faith-based. On the other hand, sex worker organisations and collectives are one relevant group of actors who are persistently excluded from anti-trafficking efforts but should be included.[[6]](#footnote-6) Similarly, other women’s collectives, such as of domestic workers, garment workers or agricultural workers, should be empowered to join anti-trafficking efforts.

**Para 72 c**: Adopt a gender-sensitive and trauma-informed policy and procedures manual

Reason: Protection measures should be trauma-informed too.

**Para 84 c**: Develop comprehensive gender- and age-sensitive policies…

Reason: We appreciate the Committee’s acknowledgment in para 6 that the causes and experiences of trafficking are different for women and girls. Policies and measures should, thus, be age-sensitive or age-appropriate, in addition to gender-sensitive. The Committee should make this clarification consistent throughout the GR (i.e. not only in this paragraph).

**Para 103 e**: ILO Labour rights framework, including for the governance of labour migration and protection of migrant workers,256 Convention C189 on Decent Work for Domestic Workers and Convention C190 on Ending Violence and Harassment in the World of Work.

Reason: States parties should accede to or ratify all ILO conventions but these two are of particular relevance to the GR and should be explicitly mentioned.

1. Commentary to Recommended Principles and Guidelines, pp. 101-102. [↑](#footnote-ref-1)
2. See, for example, B Anderson and J O’Connell Davidson, *Is Trafficking in Human Beings Demand-Driven? A Multi-Country Pilot Study*, International Organization for Migration, Geneva, 2003; ILO, *Demand Side of Human Trafficking in Asia: Empirical Findings*, ILO, Bangkok, 2006; J Ham, *Moving Beyond ‘Supply and Demand’ Catchphrases: Assessing the uses and limitations of demand-based approaches in Anti-Trafficking*, GAATW, Bangkok, 2011; N Cyrus and D Vogel, *Demand Arguments in Debates on Trafficking in Human Beings: Using an historical and economic approach to achieve conceptual clarification*, ICMPD, Vienna, 2015; see also: M Dottridge, *Emerging Good Practice by State Authorities, the Business Community and Civil Society in the Area of Reducing Demand for Human Trafficking for the Purpose of Labour Exploitation*, Council of Europe, 2016. For the purpose of this document, we rely on the Commentary to the Recommended Principles and Guidelines. [↑](#footnote-ref-2)
3. Available at <https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/report_on_impact_of_national_legislation_related_to_thb_en.pdf>. [↑](#footnote-ref-3)
4. ILO, *Public attitudes towards migrant workers in Japan, Malaysia, Singapore and Thailand*, ILO, Bangkok, 2019. [↑](#footnote-ref-4)
5. See B Harkins and A Ali, ‘Evidence or Attitudes? Assessing the Foundations of Thailand’s Labour Migration Policies’, Conference paper, 2017. [↑](#footnote-ref-5)
6. B Gerasimov, ‘Addressing trafficking in the sex industry: Time to recognise the contribution of sex workers’, *Forced Migration Review*, special issue ‘Trafficking and Smuggling’, forthcoming June 2020. [↑](#footnote-ref-6)