

**Submission by the Association MARTA Centre to the CEDAW Committee in  
connection with  
The Draft General Recommendation on Trafficking in Women and Girls in the  
Context of Global Migration (Draft General Recommendation on TWGCGM)**

Riga, May 15, 2020

Nr. 2-2/75E

Dear Honorable CEDAW Committee Members:

We thank the CEDAW Committee for the opportunity to submit these comments to the Draft General Recommendation on TWGCGM based on Article 6 of the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW).

MARTA Centre is a non-governmental organization (NGO) that has worked in the field of women's rights protection for 20 years, supporting women in Latvia – non-citizens and migrants, women with low income and unemployed women, female victims of human trafficking and of domestic violence. MARTA Centre is the only women's rights NGO in Latvia that, in addition to practical (psychological, legal and social) support to victims of violence and human trafficking actively works on advocacy to remedy these human rights violations. MARTA Centre also works on violence prevention, achieved by engaging youth in challenging the prevalent gender norms and behaviours that make young people susceptible to becoming victims and/or perpetrators of violence. MARTA Centre routinely cooperates with other NGOs and the respective public authorities at local, national and international level to safeguard the human rights of women and to raise awareness of the significance of the issue.

The vast majority of trafficked and prostituted women and girls are women and girls in vulnerable situations suffering from poverty and in many cases violence by their male family members. We as MARTA Centre see that traffickers, pimps, sex buyers benefit from exploitation of children and women in prostitution. We have experienced in many cases that the police, prosecutors and judges fail to detect victims of exploitation in prostitution and therefore they fail to keep perpetrators accountable as in most of the cases they blame prostituted persons instead not realizing that they are in vulnerable situations, controlled and manipulated.

We thank the Committee for recalling its mandate in helping States parties to fulfil their obligations under CEDAW to combat discrimination against women and girls.<sup>1</sup> As the Committee states in Section I, Paragraph 2, States parties have failed, and continue to fail us, in effectively addressing the trafficking, sexual exploitation and exploitation of prostitution in women and girls. The General Recommendation on TWGCGM should

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<sup>1</sup> General recommendation No. 28 (2010) (CEDAW/C/GC/28), Para. 2.

serve as an additional tool in assisting States parties to uphold their obligations under CEDAW, in particular its Article 6.

Among the top strategies to addressing the trafficking of women for purposes of sexual exploitation is for governments to target the demand for prostitution by penalizing sex buyers; to provide comprehensive services to prostituted women and girls and offer them functioning exit programmes to leave prostitution should they be ready to do so. We therefore applaud the Committee's emphasis that States parties must pursue by all appropriate means policies and national plans of actions to implement Article 6, including combating trafficking and discouraging the demand that fosters the exploitation of prostitution, which leads to trafficking. These tenets are also in accordance with the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (the 1949 Convention) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

In addition to suppressing trafficking, Art. 6, on which this Draft General Recommendation on TWGCGM rests, mandates the legal obligation of States parties to "take all appropriate measures, including legislation, to suppress all forms of . . . *exploitation of prostitution* of women." (emphasis added).

Therefore, we urge the Committee to add "*exploitation of prostitution*," as noted below, in the title of the General Recommendation and in the following Paragraphs, in accordance with Article 6 of CEDAW and other international instruments.

**Title of General Recommendation:** "Trafficking *and the Exploitation of Prostitution* in the Context of Global Migration."

**Section I Para. 1:** "...women and girls continue to be subjected to extreme forms of gender-based violence, constituting a violation of their human rights, *including to equality*,..."

**Section I Para. 3:** "It affirms States parties' obligation of due diligence to prevent, investigate, prosecute and punish trafficking in women and girls *and exploitation of their prostitution*, to protect victims as well as to provide reparations."

**Section III: Paragraph to be added as Section III. Para. 12 (with subsequent paragraphs to be renumbered accordingly):**

12. In addition to suppressing trafficking, Art. 6 mandates the legal obligation of States parties to "take all appropriate measures, including legislation, to suppress all forms of . . . *exploitation of prostitution* of women." (emphasis added). All forms of discrimination against women position them to have their prostitution exploited. Those who abuse their power over disenfranchised, migrant, young, rural, and ethnically and racially marginalized women and girls, to exploit them, include pimps and other third parties who sell women in prostitution and confiscate much of their earnings. Cross-cultural research has found that 84% of women in prostitution are controlled by third parties.<sup>2</sup> Brothel owners are organized to take a significant cut of their earnings. Some

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<sup>2</sup> Farley, Melissa, Kenneth Franzblau, and M. Alexis Kennedy (2014), "Online Prostitution and Trafficking," *Albany Law Review*, 77 (3), 1039-94.

in other occupations such as landlords, hotel keepers, and taxi drivers take financial advantage of women in prostitution, exploiting their destitution and desperation without necessarily falling into the Palermo Protocol definition of trafficking. Buyers of women in prostitution - variously termed “johns,” “tricks,” “dates,” “punters,” “passengers,” “sex buyers,” depending on the cultural setting - have more power, resources, and options than the women they purchase for sexual acts. These perpetrators prey on prostituted women’s lack of equal economic opportunities and exploit their prostitution.

**Section IV Para. b. 15:** “Trafficking in *and the exploitation of prostitution of* women and girls may amount to torture or cruel, inhuman or degrading treatment.<sup>3</sup>

**Section IV Para. d. 18:** “Women are not a homogenous group and their experiences as trafficking victims, *and as victimized through the exploitation of their prostitution,* are diverse.”

**Section IV Para. e. 19:** “Identifying, addressing and eliminating the root causes and discouraging the demand that fosters all forms of exploitation of women and girls through trafficking *and the exploitation of prostitution...*”:

**Section IV Para. e. 20:** “Trafficking in women is rooted..., including the demand for sexual exploitation *including of prostitution, the destination of sex trafficking.*”

**Section IV Para. e. 22:** “...as well as the lure of massive financial gains *from the exploitation of prostitution* with few risks due to the impunity enjoyed by ITS perpetrators.”

**Section IV Para. e. 30(a) ii:** “Coordinate the initiatives and activities of actors at the local, regional and national levels, including government agencies, national human rights institutions, and civil society organizations, engaged in combatting trafficking in women and girls *and the exploitation of their prostitution;*”

**Section IV Para. 56(a):** “Awareness Raising: “Disseminate information on safe migration, the nexus between human trafficking and labor migration, *sex trafficking and the sex trade,* the rights of migrant women workers and of victims of trafficking *and exploitation of prostitution* under the Convention, the UN Trafficking Protocol, national laws and available remedies for violations of those rights;”

**Section IV. Para. 58(a):** “Introduce, strengthen, and enforce employment legislation designed to protect all migrant workers... to minimize the opportunities for exploitation, *including the exploitation of prostitution,* by providing very clear protections...”

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<sup>3</sup> General recommendation No. 35 (2017) (CEDAW/C/GC/35), Paras. 16-17. The Committee has set out that a gender-sensitive approach is required to determine when an act of gender-based violence against women amounts to torture or cruel, inhuman or degrading treatment. This requires an understanding of the level of pain and suffering experienced by women. The purpose and intent requirements for classifying such acts as torture are satisfied when acts or omissions are gender-specific or perpetrated against a person on the basis of sex.

**Section IV Para. 65(a):** “Ensure coordination between States parties to address the nexus between human trafficking, *the exploitation of prostitution*, and international labor migration;”

**Section IV Para. 68(k):** “Adopt a zero tolerance policy on trafficking, *exploitation of prostitution*, and sexual exploitation and abuse, based on international human rights standards”

**Section IV Para. 70:** “The Committee affirms that discrimination against women is inextricably linked to other factors in their lives including being a victim of trafficking *and the exploitation of prostitution*. Trafficking victims *and those exploited in prostitution* are in need of immediate support services,”

**Section IV Para. 73:** “Ensure that trafficked women and girls, *and those exploited in prostitution*, are accorded all of their human rights”

**Section IV Para. 78:** “The Committee notes the high level of impunity enjoyed by perpetrators of trafficking *and of exploitation of prostitution* and draws a link to the gender-related factors underpinning [trafficking in women] *and their exploitation in prostitution*, which, as recognized in general recommendation No. 35 (2017), contribute to the explicit or implicit social acceptance of gender-based violence against women, often still considered a private matter, and to the widespread impunity in that regard.”

**Section IV Para. 80:** “...Furthermore, victims of trafficking may be subject to prosecution for acts they were forced to commit as part of their exploitation, *including in prostitution*.”

**Section IV Para. 84:** “Ensure access to justice for all trafficking victims *and victims of the exploitation of prostitution*, including forcibly displaced and migrant women, including those in an irregular situation.”

**Section IV Para. 85:** “The Committee acknowledges the complexity and the high level of skill required to investigate and prosecute allegations of trafficking in women and girls, *and of their exploitation in prostitution*, that often implicate a criminal network operating transnationally.”

**Section IV Para. 86:** “The Committee condemns the use of anti-trafficking interventions *or the criminalization of women exploited in prostitution* to justify violence against specific groups of women, particularly in the case of violent raids and entrapment operations by law enforcement authorities conducted with a view to dismantling trafficking networks, *provided, however, that law enforcement must duly target, prosecute and punish traffickers and other third party exploiters*.”

**Section IV Para. 88(a):** “Ensure the timely prosecution and adequate punishment of trafficking in women and girls, *of the exploitation of the prostitution of others*, and related offences”

**Section IV Para. 90:** “...Ensure that the sanctions imposed on all convicted perpetrators of trafficking, *of exploiting the prostitution of others*, and related crimes are commensurate.”

**Section IV Para. 94:** “Victims of trafficking *and exploitation in prostitution* often encounter significant difficulties in claiming compensation and other forms of reparation for damages and harms suffered.”

**Other Proposed Changes**

**Section IV Para. a. 12:** “...The Committee identifies the higher risk faced by women and girls subjected to multiple and intersecting forms of discrimination, *including discrimination based on race and ethnicity*, particularly women and girls in poverty, living in remote areas, forcibly displaced women and girls, and women and girl migrants.”

**Section IV Para. g. 64:** “...root causes of real migration patterns of low-income women who often undertake risky migration for work in exploitative informal employment *and the sex trade.*”

**Section V Para. b. 70:** “...The provision of long term, needs-based, comprehensive victim-centred assistance and protection measures are often lacking in anti-trafficking responses *and responses to women victims of the exploitation of prostitution, especially when such women are criminalized.*”

**Section V Para. 72(i):** “Shelters for trafficked women should place few, if any, limitations on women’s freedom of movement and be limited to security *and revictimization* considerations;”

Furthermore, we re-emphasize that the concept of the exploitation of prostitution as “work,” or that the trafficking of women for such purposes could ever fall under the framework of migration, contradicts and undermines international law and human rights principles. We collectively affirm that the system of prostitution is neither “sex,” nor “work,” but an expression and manifestation of violence.

The General Recommendation on TWGCGM must not only assist States parties in accelerating their efforts and exercising political will to fully implement CEDAW, in particular Article 6 in this instance. It must also remind States parties that sexual violence and sexual access to women’s bodies are the most pervasive manifestations of inequality between men and women, influenced by socio-cultural, economic and historical factors, and primarily involves elements of male control, power, profit-making, domination, and humiliation over women and girls, that must be holistically addressed.

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No State can realize women’s rights and equality while upholding or condoning the system of prostitution and sexual exploitation, which leads to trafficking.

Respectfully yours,

**Director of the Association MARTA Centre**

**Iluta Lāce**

