**Comments on the DRAFT General Recommendation on Trafficking in Women and Girls in the Context of Global Migration**

**To the Committee on Elimination of Discrimination Against Women**

**VI. Victim’s Access to justice**

**Paragraph 88. Prosecutions**

* The GR should encourage states to give victims the option to testify in an uncompromising private setting. That way, victims will know that they still have control over their lives. Article 24 of the Convention against Transnational Organized Crime (UNTOC) requires States Parties to provide effective protection from potential retaliation of intimidation for witnesses who give testimony in criminal proceedings. Traffickers usually take away a victim’s liberty not only to move but to make even the plainest decisions like what to eat.[[1]](#footnote-2) As such, some victims of trafficking, especially of sexual exploitation, continue living in fear even when their traffickers are behind bars.[[2]](#footnote-3) The power that these traffickers often have over them goes beyond physical, it is mental.[[3]](#footnote-4) It is therefore important for victims to know that they can choose to testify in a space of their choice, one that is free of intimidation.
* The GR needs to emphasize the importance of Victim-protection after the trafficker has been prosecuted and imprisoned. Reports show that most traffickers are part of transnational groups like gangs.[[4]](#footnote-5) As such, they usually continue to contact and intimidate victims even while in prison, sometimes forcing them back into trafficking situations.[[5]](#footnote-6) Therefore, it is important to protect survivors of trafficking from their traffickers even while the latter is in prison.

**Paragraph 90. Adequate punishment**

* The GR should recommend fines as an additional form of compensation for victims of trafficking. Article 6(6) of the Trafficking Protocol requires countries to ensure their domestic legal systems contain measures that offer victims of trafficking the possibility of obtaining compensation for damage suffered. Human trafficking deprives its victims of a means of livelihood. Compensation can give them a start and life and prevent them from ending up in a situation like poverty that may have made them vulnerable to trafficking.[[6]](#footnote-7)

**VII. Dissemination and Reporting**

**Paragraph 99**

* The GR needs to recommend that states report on specific steps and programs that they have initiated to protect their citizens who travel to work abroad, especially as domestic workers. States have the power to ensure the safety of women workers from their jurisdiction. For example, some African countries signed Memoranda of Understanding with some Gulf states.[[7]](#footnote-8) These memoranda outline issues such as the importance of employment contracts between employer and employee, which is fundamental to ensure their protection.[[8]](#footnote-9) However, there are also reports that there is an inadequate implementation of these agreements, especially regarding women who travel by irregular means.[[9]](#footnote-10) It defeats the purpose of protecting women who make the brave move to travel abroad for work. States should, therefore, report on the implementation of these agreements to benefit all migrant women alike.
* The GR should also require states to report on the steps they are taking to protect migrant domestic workers in their jurisdiction.[[10]](#footnote-11) The responsibility should not only fall on the domestic workers’ states of origin. These steps could include putting in place legislation that eliminates practices like the Kafala system that breed an environment for the exploitation of the domestic workers who usually, are hidden away from the public eye.[[11]](#footnote-12)

Thank you

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*Disclaimer: These are entirely the author’s views and do not reflect those of the institutions mentioned above.*

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2. *Id.*  [↑](#footnote-ref-3)
3. *Id.* [↑](#footnote-ref-4)
4. United Nations Office of Drugs and Crime & United Nations Global Initiative to Fight Human Trafficking, Anti-human Trafficking Manual for criminal justice practitioners Module 12. 2009. <https://www.unodc.org/documents/human-trafficking/TIP_module12_Ebook.pdf> [↑](#footnote-ref-5)
5. Lloyd, *Supra* [↑](#footnote-ref-6)
6. Jeltsje J. Cusveller & Edward Kleemans, fair compensation for victims of trafficking? A case study of the Dutch injured party claim, Vol.24 Issue 3 International Review of Victimology, 2018, <https://journals.sagepub.com/doi/pdf/10.1177/0269758018758427> [↑](#footnote-ref-7)
7. WAM, GULF NEWS, UAE and Kenya sign MoU on domestic workers- Agreement lays down guidelines for recruiting domestic workers. April 25, 2018. <https://gulfnews.com/uae/government/uae-and-kenya-sign-mou-on-domestic-workers-1.2211857> [↑](#footnote-ref-8)
8. # *Id.*

   [↑](#footnote-ref-9)
9. Sohia Njiru & Nkirote Laiboni, Women’s Labour Migration on the Africa- Middle East Corridor: Experiences of Migrant Domestic Workers from Kenya, July 5, 2018, <https://www.gaatw.org/publications/Kenya_Country_Report.pdf> [↑](#footnote-ref-10)
10. # The Human Rights Watch, Wall at every Turn: Abuse of Migrant domestic Workers through Kuwait’s sponsorship system, October 6, 2010, <https://www.hrw.org/report/2010/10/06/walls-every-turn/abuse-migrant-domestic-workers-through-kuwaits-sponsorship-system>

    [↑](#footnote-ref-11)
11. *Id.* [↑](#footnote-ref-12)