**Committee on the Elimination of Discrimination against Women**

**DRAFT General recommendation on Trafficking in**

**Women and Girls in the Context of Global Migration**

**General comments:**

A: Facts and Recommendations are written under each sub-section, and I suggest that before each set of recommendations, insert one sentence noting that “the below is a set of recommendations”

B: Emphasis on commercial sexual exploration under the context of migration is weak. I suggest to refer to this including commercial sexual exploitation of children.

C: Impact from forth industry revolution is limited, how it interacts with global migration and increase risk of trafficking in women and girls.

Below is a set of suggestions for consideration, and each number refers to the paragraph of the draft GR.

1. **Para 2.** According to the Committee on the Elimination of All Forms of Discrimination Against Women (the Committee), the phenomenon persists due to States parties’ failure to effectively address the root causes of trafficking in women and girls and to discourage the demand that fosters the exploitation of women and girls, which leads to trafficking.

**Comments: “Failure” is very strong term, and I believe Cambodian government has made its efforts to tackle the issues. I propose to change this term to “limited efforts”.**

1. **Para 4:** The Committee appreciates the regional-specific approaches required to address the forms of trafficking in women and girls across the globe.

**There is not many regional-specific approaches to the issue. I suggest the Committee name some such initiative, including “Great-Mekong reginal approach”.**

1. **Para 8;** The Committee appreciates that the definition of trafficking in persons extends beyond situations where physical violence has been used or the victim’s personal liberty has been deprived. Particularly in the case of girls, trafficking is constituted simply when a trafficking act has been committing for the purpose of exploitation. Its examination of States parties’ reports reveal that the abuse of a position of vulnerability, the abuse of power and the culture of impunity are the most common means used to commit the trafficking crime, and that victims are often subjected to multiple forms of exploitation such as in cases where women and girls are trafficked for sham, forced, child/early and/or servile marriage, as well as for sexual exploitation, forced labour and domestic servitude.

**I suggest to add “Commercial” and change sexual exploitation to “Commercial sexual exploitation”**

1. **Para 12 :** According to the United Nations Office on Drugs and Crime, of all the trafficking victims detected in 2016, women and girls made up: 94% of those trafficked for sexual exploitation; 35% of those trafficked for forced labour; and 57% of those trafficked for other purposes.

**For the purpose of the GR, this data (UNODC) is mis-leading because this may include exploitation by family members, may include the non-on-the move type of exploitation. Thus, it is desirable that some comments or explainatory note is written about this data. Also, it is important and necessary to note, that “it is impossible to detect the number (or percentage) of victims of human trafficking due to its criminal nature”, so that this data is not used as a standard data in the discourse of human trafficking.**

1. **Par 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 and girls and women and girl migrants.

**This part, I suggest to add elements of “stigma” as a part of intersecting impact that victims would suffer.**

1. **Para 13** The crime of trafficking is characterized by a complex web of perpetrator and victim profiles, as well as jurisdictions, often implicating private persons, corporations, State-mandated actors and officials. Its victims include both citizens and non-citizens, with trafficking victims being detected both in their countries of citizenship and abroad. The crime may take place entirely within one jurisdiction but often involves the crossing of one, or several, international borders. International pathways of human trafficking often align with international migration flows; with many detected cases involving victims trafficked from lower to higher GDP countries.

**The Committee may refer to the problem of victim identification somewhere, but I would suggest to add in this para 13 about the challenges that each state applies different victim identification mechanism.**

1. **Para 15 :** Trafficking in women and girls may amount to torture or cruel, inhuman or degrading treatment.

**As this GR is addressing children (girls) case, I suggest that impact and damage that attack welfare of children and their fundamental rights is also noted here.**

1. **Para 18:** The Committee has acknowledged that identical or neutral treatment of women and men might constitute discrimination against women if such treatment resulted in or had the effect of women being denied exercise of a right because there was no recognition of the pre-existing gender-based disadvantage and inequality that women face. Discrimination on the basis of sex or gender may affect women belonging to groups in situations of vulnerability in different ways. Women are not a homogenous group and their experiences as trafficking victims are diverse. 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, and women and girls with an irregular migration status.

**I suggest that in “marginalized” group of women, this GR specifically refers to the women belonging to sexual minority.**

1. **Para 19:** Identifying, addressing and eliminating the root causes and discouraging the demand that fosters all forms of exploitation of women and girls through trafficking are key to States parties’ prevention efforts. A gender-transformative approach is required to dismantle the structural and systemic conditions that deprive women and girls of their fundamental rights, the consequence of which places them in situations of vulnerability to exploitation by traffickers. Women’s right to a life free from gender-based violence is indivisible from and interdependent on other human rights. An effective anti-trafficking response must engage all substantive provisions of the Convention.

**I suggest to also add some references to the new forms of human trafficking as one of key intervention, such as online. Addressing the danger and risk of online related human trafficking (such as international marriage, migration, CSEC) is not well addressed yet.**

1. **Para 20:** Trafficking in women is rooted in gender-based discrimination, gender-based structural inequality and the feminisation of poverty compounded by growing global inequalities and the demand for cheap and/or forced labour, including the demand for sexual exploitation.

**This above sentence is perfect, but I would suggest “Power dynamics” as one root cause.**

1. **Para 23:** The patriarchal norms and values, sometimes formalised in legislation, including family laws, facilitate trafficking for child/early and forced marriage. Families may agree to the indefinite or temporary “marriage” of their daughter in exchange for financial gains. So-called “women shortages” due to family planning policies in some countries has exacerbated this situation.

**I suggest, in addition to FAMILY LAW, Criminal law is noted.**

1. **Para 24:** Women and girls living in rural and remote areas, indigenous women and girls, 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.

**I suggest to add “marginalized women” here, and specifically refer to “women belonging to sexual minority”.**

1. **Para 24:** Stateless and undocumented women are obliged to use irregular channels of migration without access to diplomatic protection.

**I suggest to add “Women and their children”, and also risks and danger that girls may face when stateless and undocumented mothers are using irregular channels.**

1. **Para 25: Review statistical methodologies and conceptual frameworks related to data collection to include indicators that reflect States’ systemic responses to trafficking, including by:**

**Starting from para 25, it is a set of recommendations. Therefore, it is desirable that GR insert (f) as a new sub-section and describe that this section is about recommendations to the state parties.**

1. **Para 28: Women’s rights framework to human development:**

**Only this recommendation starts with the statement (noun)“Women’s rights framework to human development”, lacking consistency with other recommendations. I recommend to rephrase “Strengthen women’s rights framework to human development”**

1. **Para 39**: The Committee has recognized that gender-based violence against women is one of the major forms of persecution experienced by women that may be grounds for granting refugee status and asylum.

**I suggest to include GIRLS, by staring gender-based violence against women and girls**

1. **Para 41 : In line with the Committee’s general recommendation No. 30 (2013)**

**After para 41 is a set of recommendation, so I suggest to insert one paragraph addressing that the below is a set of recommendations and obligations to the state parties.**

1. **Para 51:** Migrant women often experience multiple and compounded forms of discrimination including sex- and gender-based discrimination, xenophobia and racism. The majority do not have access to adequate services on an equal basis with citizens. Many have a precarious economic and/or legal status, which increases their vulnerability to all forms of violence, including trafficking.

**I suggest, due to vulnerabilities of women’s gender, to change this to “including trafficking, especially for sexual exploitation”**

1. **Para 70:** The Committee affirms that discrimination against women is inextricably linked to other factors in their lives including being a victim of trafficking. Trafficking victims are in need of immediate support services, including access to information on their rights, medical, psychological and legal services available to them and how to access them.

**I suggest adding “social service” along with several services listed above.**

1. **Para 79:** Criminal laws are particularly important in ensuring that women are able to exercise their human rights, including their right to access justice on the basis of equality. States parties are obliged, under articles 2 and 15 of the Convention, to ensure that women have access to the protection and remedies offered through criminal law, and that they are not exposed to discrimination within the context of those mechanisms, either as victims or as perpetrators of criminal acts.

**I suggest to also refer to the importance of confidentiality, or privacy protection of victims here.**

1. **Para 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[[1]](#footnote-1) including for trafficking victims, forcibly displaced, stateless, or migrant women.

**I suggest here, that this GR also refers to the women belonging to sexual minority. Trans-gender women in foreign land may particularly vulnerable to punishment by the law of the destination country, or discriminatory attitudes or prejudices, and increase stigmatization.**

1. **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 that often implicate a criminal network operating transnationally. Over-reliance by the prosecution on witness testimonies is often insufficient to secure a conviction. Low rates of investigations, prosecutions and convictions can also be attributed to lengthy legal proceedings, lack of trafficking expertise among judges and prosecutors, complicity of State officials, gender bias in courts, difficulties in securing victim cooperation due to lack of victim-friendly approaches and procedures, and low corporate accountability.

**I suggest also here that many victims lack clear memory or information about the traffickers or pathways that they were brought to, which impede effective investigation.**

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1. General recommendation No. 33 (2015) (CEDAW/C/GC/33), paras. 3 and 22. [↑](#footnote-ref-1)