***Draft General Recommendation on TWGCGM***

Submitted by:

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**GIRLS ARE RARELY EXPLICITLY MENTIONED IN THE DOCUMENT**

**Paragraph #6**: I am pleased to see that the Committee *appreciates the regional-specific approaches required to address the forms of trafficking in women and girls across the globe*, that it *acknowledges that the causes, consequences and experience of trafficking differ for young girls and teenage girls from that of adult women*, and reiterates the obligations of States parties *to promote the equal rights of girls as part of the larger community of women*, and to take into account these differences in their responses to combating trafficking*.* I note, however, that girls are rarely explicitly mentioned throughout the document in terms of causes, consequences, and experiences. For example:

**Paragraph #18**. The Committee rightly note that *“Women are not a homogenous group and their experiences as trafficking victims are diverse.”* Here, and elsewhere, I think the Committee should also explicitly mention girls.

**EXPAND THE AREAS OF EXPLOITATION**

**Paragraph #8: The Committee recognizes that *“****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 note, however, that it fails to acknowledge several other overlooked areas of exploitation that have been identified in the research literature[[1]](#footnote-1), including: organ removal, begging, selling flowers and panhandling, forced commercial surrogacy, and baby selling.

**Paragraph #20: This paragraph notes that women and girls are prime targets, particularly for the purpose of sexual exploitation. As noted above, it might also include reference women and girls who are trafficked for other reasons and the systemic failures to identify them. As noted by Rafferty (2019), *“****Key informants drew attention to policies and practices that do not adequately represent the reality of the settings into which children are currently being trafficked. They reported, for example, that assumptions about victims of child trafficking being primarily girls, who are trafficked into the commercial sex industry (CSI) for prostitution and other modes of sexual exploitation (e.g., karaoke entertainment establishments, massage parlors, brothels, hotels, private locations), are not entirely accurate, and has led to an oversight of the exploitation of those who are trafficked for other reasons (e.g., domestic servitude, factory work, and other forms of forced labour).”*

**DO NOT OVERLOOK THE EMERGING FORMS OF CYBER-BASED SEXUAL VIOLENCE**

**Paragraph #12: The Committee expresses concern about the role of technology in the recruitment of female victims. As noted in the research literature, much of the buying and selling of victims of human trafficking is now conducted online. As noted by Rafferty (2019), for example, *“****Key informants highlighted the need for greater attention to identify those engaged in emerging forms of cyber-based sexual violence, whereby children are involved with pornographic acts that are distributed online, as well as being exploited via live streaming.”* Key informants further noted that although some victims may be trafficked for this purpose *in “sex webcam centers,”* some young people sell themselves performing sexual acts on the dark web via mainstream apps (they make the video live and upload it to the web or make oneself available via live streaming), without the intervention of a trafficker or pimp, and obtain payment via bartering or bitcoin.”

**ROOT CAUSES: INCLUDE SPECIAL & SPECIFIC ECONOMIC ZONES**

**Paragraph #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.”* **It might also be noted that some women and girls are** subject to sex trafficking and other forms of forced labor in factories, hotels, and casinos within Special or Specific Economic Zones. As noted by Rafferty (2019), key informants cautioned that these establishments, designed to meet the demand of migrant workers and Asian tourists, and purported to have been launched with assistance from some corrupt government officials, offer restricted access, limited oversight, and are exempt from the jurisdiction of local laws. In northern Laos, for example, the Kings Romans Group (a crime network) holds a 99-year lease on approximately 25,000 acres, where casinos and hotels were established, and has been accused of engaging in a variety of illicit activities, including the trafficking of humans, wildlife, and drugs, as well as commercial sexual exploitation of children, money laundering, and bribery.

**DO NOT OVERLOOK THE ROLE OF COMMUNITY RISK FACTORS**

**Paragraph #21: The Committee rightly notes that in addition to discouraging demand, women and girls are adversely impacted by the adverse impact of economic and public policies that limit their livelihood options and basic living standards, social structures that limit their access to key resources (e.g., economic, land, political, educational, information and knowledge), as well as pervasiveness of patriarchal gender roles, that limit the sustainable livelihood options and basic living standards for women and girls. I note, however, that these challenging environmental factors have been linked in the research literature with assessments of who is a “*victim of exploitation*,” and the challenges that they pose to identification. As noted by Rafferty (2019*)*,** some participants expressed apprehension pertaining to the identification of those who neither perceive themselves as being a victim or to have experienced exploitation**: *“****Discussions with participants regarding concepts such as “exploitation” and “victim” often focused on the lack of alternative options to make an income in areas characterized by extreme poverty, the question of choice when there is no choice, and how these real-life scenarios serve as the main drivers for decisions that are made.”* Compounding the lack of alternative options in high-risk settings, is the concept of Filial Piety affecting many girls. The term “filial piety” is used throughout Asia to refer to a strong cultural value of respect, obedience, and gratitude toward one’s parents, and the expectancy that children are obliged to support and assist their families.

**Paragraph #22:** The Committee identifies risk factors for trafficking at the level of the individual (uneducated, unemployed) and community (disempowered by political, economic, societal and family structures), lacking access to sustainable livelihoods, little of no information about trafficking or how traffickers operate (and lured by promises of a means of escape from impoverished circumstances), and social and cultural norms that perpetuate male power and control which drive demand for the exploitation of trafficking victims. I suggest that the issue of migration be highlighted here. As noted by Rafferty (2019), *“Key informants reported that the major risk factor for child trafficking is now within the context of unsafe migration. Potential victims include those of legal working age who are ‘voluntarily’ fleeing social and economic conditions in communities characterized by dire poverty.”*

**EXPAND THE LIST OF PREVENTION ACTIVITIES**

**Paragraph #26(b):** The Committee recognizes the importance of addressing the root causes of trafficking by providing women and girls with access to basic services, including education, information, health care, and employment opportunities. I suggest the term health care be changed to: physical and mental health care. I also propose the addition of two empowerment strategies: (a) promote competence and resilience through education and life skills, (b) ensure safe migration (cf. Rafferty, 2013a). In addition, Rafferty (2013b) describes how the “*Spectrum of Prevention*” provides a viable theoretical framework to guide the development and implementation of preventing human trafficking.

**Paragraph #26(d):** The Committee recognizes the importance of addressing the root causes of trafficking by “*Stepping up nationwide public awareness-raising campaigns, particularly in rural communities, on the risk of human trafficking, the methods employed by traffickers and measures to reduce these risks*.” I suggest that this list be expanded to include a discussion of increasing their awareness of safe migration practices, including effective strategies to protect oneself (cf. Rafferty, 2019).

**Paragraph #26(e):** The Committee recommends the strengthening of prevention efforts to combat the practice of child and forced marriage. I proposed the addition of other exploitative practices (e.g., unregulated commercial surrogacy; baby factories; the selling of breast milk; and labour exploitation in unregulated factories, casinos, restaurants, hotels, private households).

**Paragraph #29**: The Committee recommends the adoption and implementation of comprehensive gender-sensitive anti-trafficking legislation. I support this recommendation, but note that there is a plethora of international and regional mandates and guidelines currently in existence (cf. Rafferty, 2019). I suggest that the emphasis be on the implementation and enforcement of existing mandates, and the sharing of promising international and regional guidelines.

**PSYCHOSOCIAL RECOVERY & PROTECTION FROM REVICTIMIZATION**

**Paragraph #29(j):** The Committee recommends the importance of training in its gender-sensitive application. *“Provides judges, prosecutors, criminal, financial and border police, asylum and immigration authorities and other law enforcement officials with mandatory training in its gender-sensitive application.”* I suggest the inclusion of culturally-sensitive training, including training in trauma-informed care and trauma-informed identification strategies.

**Paragraph #47**: The Committee recognizes the importance of protecting victims from revictimization. *“States parties are obligated to protect victims of trafficking in persons, especially women and children, from revictimization. This includes guaranteeing trafficking victims’ protection against refoulement.”* Key informants interviewed by Rafferty (2019) cautioned, however, that the process and purpose of psychosocial recovery and return to community, as well as integration into a new community, was based on the flawed assumption that if victims are rehabilitated and trained with skills that they will be able to pursue options upon their return that were not available to them when they left home.

**Paragraph #59**: I support the use of the word “enforce” in the Committee’s recommendations pertaining to employment legislation. “*Introduce, strengthen, and enforce employment legislation designed to protect all migrant workers, irrespective of level of skill or the sector in which they work, duration of their employment, and to minimize the opportunities for exploitation by providing very clear protections, including minimum wage, overtime pay, health and safety, and decent working conditions, particularly in unregulated or unmonitored economic sectors that rely on migrant women’s labour*.” I recommend the addition of training on sexual harassment, corporate social responsibility, and the importance of ensuring ethical recruitment and supply chain practices that are free of slave labor, as well as providing assistance and training to companies to ensure compliance with human rights and labour standards in supply chains.

**Paragraph #63:** I note the Committee’s recommendation to “*address trafficking in corporate supply chains”*, but I suggest that the language be strengthened to include terms like “enforce” as used in paragraph 59(d), discussed above: “*Enforce adequate legal sanctions against employers engaging in abusive employment and labour practices*.” I also suggest requiring the sharing of promising programs and practices (e.g., those that have been identified by the International Organization for Migration).

**Paragraph #64**: I support the emphasis on the use of labour inspectors to report on breaches of labour laws. I suggest, however, that the issue of government corruption also be addressed, as well as the exclusion of some areas (e.g., Special and Specific Economic Zones) that offer restricted access, limited oversight, and are exempt from the jurisdiction of local laws (see above discussion for Paragraph #12).

**IMPROVE THE PROCESS OF VICTIM IDENTIFICATION**

**Paragraph #67:** The Committee rightly identifies a number of challenges in identifying victims of trafficking, including: the lack of gender sensitivity among relevant professionals, the fact that many victims are hidden in non-public areas, the lack of awareness among victims, the impact of trauma on their ability to seek help; fear of retaliation; and linguistic and other barriers confronting migrants. I note, however, that there are a number of other vital challenges to identification that are not mentioned here (cf. Rafferty, 2016), including: (a) limited focus on those who are trafficked for reasons other than commercial sexual exploitation; (b) some victims do not wish to be identified for various reasons (e.g., lack of alternative options, filial piety). Finally, research conducted by Rafferty (2019) indicates that *“The majority of victims are not being formally identified.”*

**IMPROVE THE PROCESS OF VICTIM ASSISTANCE AND PROTECTION**

**Paragraph #68**: The Committee rightly recognizes that girls and women who have been trafficked are at risk of *“physical and psychological injury, gender-based violence, death, sexual exploitation and abuse, pregnancy and reproductive health issues, and contracting sexually transmitted diseases, including HIV, at various stages of the trafficking cycle and also recognizes the need to eliminate discrimination in access to health care.”* I note, however, that access to mental health care is also problematic. Rafferty (2018), for example, reports that access to mental health services for victims of trafficking was often described by key informants as being scarce, inferior in quality, and inadequate to address prevailing needs and repair the psychological damage caused by trafficking. Two of the key challenges to the provision of timely and appropriate mental health care included: (1) inadequate financial resources provided by governments for psychosocial recovery of victims; and (2) inadequate human resources, such as training in both counseling and psychological support for providers of mental health services. In addition to access barriers, Rafferty (2019) also describes the essential components of promising program practices to address mental health needs and provide quality and culturally appropriate care: (a) trauma informed care, (b) culturally relevant mental health services, (c) incorporate alternatives to traditional therapy, (d) offer comprehensive services and collaborative care, (e) ensure comprehensive case management, (f) individualized care that recognizes a hierarchy of needs, and (g) include mental health assessments to guide the delivery of services.

**Paragraph #70.** The Committee notes that *“Under international law, trafficking victims have a special status and a right to special assistance and protection measures provided by the State.”* However, as noted by Rafferty (2019), this language needs to be strengthened. Article 6(5) of the Trafficking Protocol, for example, does not speak of rights. Rather, it requires States parties to “**endeavor** to provide…, and Article 6(3) requires States Parties to “**consider** implementing….” In addition, research conducted by Rafferty (2019) indicates that “*Survivors rarely receive the psychosocial services that are outlined in international and regional guidelines, and safe and sustainable reintegration efforts often insufficiently address issues related to social inclusion, economic empowerment, and access to viable job opportunities to enable victims to reestablish their lives and prevent re-trafficking*.”

**Paragraph #71:** The Committee rightly notes the need for a number of vital support services. ***“****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. Yet they often face restricted access to essential services, both in the country in which they are identified and in their community of origin. The provision of long term, needs-based, comprehensive victim-centred assistance and protection measures are often lacking in anti-trafficking responses.”* I might add, however, that in addition to increasing access, there is a dire need to expand availability as well as to enhance the overall quality of services that are available (cf. Rafferty, 2018).

**Paragraph #73(d):** The Committee recognizes the need to *“provide linguistic and culturally appropriate gender-sensitive emergency and longer-term medical and social services that are accessible to all trafficking victims, regardless of their immigration status without fear of arrest or deportation.”* This list might also include a reference to the need for both physical and emotional care. It might also note the need for accessible services among those with “severe” mental health problems.

**Paragraph #73(e):** The Committee recognizes the need to “*strengthen the provision of services to all victims of trafficking by providing enhanced human, technical and financial resources to social work centres and targeted training for social workers and medical staff dealing with victims*.” This list might also include the need to provide human, technical and financial resources to physical and mental health care providers (in addition to social work centers), as well as including mental health providers as a group requiring targeted training in dealing with victims.

**Paragraph #73(f):** The Committee proposes adequate resources to *“establish sufficiently funded, well-equipped, separate shelters, or specialized units within existing shelters and crisis centres, with specially trained staff that focus on the provision of assistance specifically to women victims of trafficking ensuring they are treated with dignity and in a confidential manner.”* This suggestion might warrant rethinking. Rafferty (2019 and 2018), for example, describes some concerns raised by key informants pertaining to shelter-based care (e.g., restrictive shelter policies, detention against one’s will, inadequate quality and services, abuse by staff and outside others). Participants often reported that community-based care may be superior to shelter-based care in many cases, although they cautioned that structural vulnerabilities within high-risk settings often posed a serious threat to safe and sustainable reintegration (e.g., dire poverty, paucity of resources, a lack of viable job and economic opportunities, complicity and corruption among government officials, and gender inequities).

**Please address questions or comments to Yvonne Rafferty, Ph.D. (yrafferty@pace.edu)**

1. \*Rafferty, Y. (2019).The identification, recovery and reintegration of victims of child trafficking within ASEAN: An Exploratory Study of Knowledge Gaps and Emerging Challenges*.* *Journal of Human Trafficking*. DOI: [10.1080/23322705.2019.1689476](https://doi.org/10.1080/23322705.2019.1689476)

\*Rafferty, Y. (2018). Mental health services as a vital component of psychosocial recovery for victims of child trafficking for commercial sexual exploitation*. American Journal of Orthopsychiatry*, 88(3), 249 – 260.

\*Rafferty, Y. (2016). Challenges to the rapid identification of children who have been trafficked for commercial sexual exploitation. *Child Abuse & Neglect, (52),* 158 - 168.

\*Rafferty, Y. (2016). Child trauma as an outcome of child trafficking for commercial sexual exploitation: A human rights-based perspective*. Psychology & Society, 8*(2), 78 – 94.

\*Rafferty, Y. (2013a). Child trafficking and commercial sexual exploitation: A review of promising prevention policies and programs. *American Journal of Orthopsychiatry, 84*(4), 1 – 17.

Rafferty, Y. (2013b). *Ending child trafficking as a human rights priority: Applying the Spectrum of Prevention as a conceptual framework*. In J. Sigal and F. Denmark (Eds.), Violence Against Women Across the Life Cycle: An International Perspective (Ch. 8; pp. 133 – 174). [↑](#footnote-ref-1)