

To: Committee on the Elimination of Discrimination against Women

From: Sex Workers' Rights Advocacy Network from Central and Eastern Europe and Central Asia (SWAN)

Subject: Statement regarding General Recommendation No 38, on Trafficking in Women and Girls in the Context of Global Migration

Date: 8th of March 2021

Sex Workers' Rights Advocacy Network in Central and Eastern Europe and Central Asia (SWAN) strongly condemns the regressive provisions and measures put forth in the General Recommendation No 38, on Trafficking in Women and Girls in the Context of Global Migration.

On this International Women's Day, we would like to remind the CEDAW Committee that its role is to promote human rights for all women. We share our profound disappointment that in this instance the CEDAW Committee has failed to hear and acknowledge the voices of sex workers globally.

Many sex worker led organizations, including SWAN, and our allies, were actively involved in the consultation process leading to development of this General Recommendation, and submitted numerous views, suggestions and evidence based recommendations to the Committee elaborating on the ways that this GR can support or diminish sex workers rights and wellbeing.

Our joint demands and recommendations asked that as a way forward in achieving universality of human rights, elimination of all forms of discrimination against women, including sex workers and migrant sex workers, the Committee ought to take a progressive approach that will emphasize the differences between sex work and trafficking as different sets of measures are needed to improve the status of both sex workers and victims of trafficking. We hoped that this will also open up a space to recognize and address sex workers needs and demands beyond Article 6.

Sadly, the Committee decided to ignore the voices and recommendations from sex workers and support the abolitionist approach, failing to provide the basis for elimination of all forms of discrimination against all women equally. Instead, the Committee developed a General Recommendation which is regressive and will lead to further harm and human rights abuses of sex workers, namely: the way in which women engaging in sex work and potential exploitation that might occur at work places are referred to; in continuing to conflate and overlap sex work and trafficking; and in the promotion of the end demand approach which has always been harmful to sex workers due to increasing policing, violence and criminalization.

By situating the scope of its recommendation into the legal framework of the obsolete, racist and colonial 1949 Convention on Trafficking and framing Article 6 as 'an indivisible provision which links trafficking and sexual exploitation' (paragraph 8 and paragraph 121/h), and by furthermore conflating trafficking and sex work throughout the Recommendation, the CEDAW Committee is in effect ignoring and denying decades of work on clarifying and disentangling

the conflation between sex work and trafficking and thereby working against its own mandate set forth in article 21 of the Convention by obfuscating rather than “clarifying States parties’ obligation to combat discrimination against women and girls”.

Furthermore, the patriarchal undertones of paragraph 76 reinforce patriarchal and discriminatory gender stereotypes, which is in clear collision with the sole purpose of the Convention.

Vaguely formulated provisions mentioning persons involved in the demand side of trafficking (paragraph 61 and paragraph 63) in a context where trafficking and sex work are conflated are liable to be misapplied to criminalize sex workers and their clients. These practices, as well as the harmful effects of criminalization of clients on the sex worker community (increased policing, violence, health risks, marginalization) are widely documented and already submitted to the Committee during the consultative process. Yet, the Committee decided to disregard and ignore the evidence and promote an abolitionist approach to end demand, thus putting at risk human rights of sex workers instead of providing equal ground for protection and treating sex workers voices equal to all women.

The debate on trafficking in women and girls has historically had a significant impact and influence on policies and interventions targeting sex workers, and we are aware that these reiterations in the General Recommendation will have harmful consequences on the lives, rights and wellbeing of sex workers globally.

Thus, we will continue to advocate for **sex workers rights as women rights**, for meaningful inclusion of sex workers in policymaking processes, and we will continue to serve as a platform for amplifying sex workers’ demands and recommendations for CEDAW Committee members to:

1. Acknowledge and listen to voices of sex workers as most affected by the discourses, laws, policies and practices which conflate trafficking for sexual exploitation and sex work;
2. Ensure that all decisions influencing rhetoric and debates around sex work and exploitation are made not on a moral, but pragmatic grounds, based on evidence and documented implications to health and safety of sex workers;
3. Adopt terminology, which is non-stigmatizing, neutral, and provide space for self-identification of sex workers instead of condemning them as criminals or victims. This is crucial for providing a space for inclusion and participation in public debates of sex workers as equal citizens in a democratic societies;
4. Express opposition to laws and policies that criminalize or penalize sex work, be it of the sex workers, clients, or third parties, as there is a strong and robust evidence base demonstrating that laws and policies fuel human rights violations and poor health outcomes among sex workers.
5. Review and amend anti-trafficking responses that increase the risk of exploitation and violence for migrant sex workers and explore the possibility of building cooperation with sex worker rights organizations to support the identification of genuine cases of exploitation and abuse within the sector;