



sex workers' rights advocacy network

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: Commentary on the Draft General Recommendation on Trafficking in Women and Girls in the Context of Global Migration (Draft General Recommendation on TWGCGM)
Date: 15th May 2020

Introduction and background

The Sex Workers' Rights Advocacy Network in Central and Eastern Europe and Central Asia (SWAN) is a sex worker led network which unites sex workers and rights advocates from 28 organizations in 19 countries in the Eurasian region, with a shared vision – to create societies where sex work is decriminalized/depenalized, where sex workers can operate free from state and non-state violence, stigma and discrimination. In these societies, sex workers are empowered and actively engaged in issues that directly affect their lives and health.

The debates, documents and protocols on trafficking in women and girls have significant impact and influence on policies and interventions targeting sex workers, which makes this General Recommendation of outmost importance for the sex workers' rights movements.

Since 2013, we and our members have engaged and used CEDAW convention as a tool for advocacy to improve the status and wellbeing of female sex workers in the region, which resulted in numerous shadow reports and follow up advocacy. Based on those experiences, we expect that this General Recommendation will bring clarity and clear distinction between sex work, migration and trafficking for sexual exploitation as a root cause for harmful policies targeting sex workers and distracting authorities from adequate responses toward victims of trafficking in various economic sectors.

Key concerns & Recommendations

General comment/concern:

The draft general recommendation is heavily focused on “Root causes of trafficking in women and girls and discouraging the demand that fosters their exploitation through trafficking.” While we agree that addressing social, economic and gender inequalities as a root cause for vulnerabilities for trafficking in women and girls are crucial issues to be addressed in this document, we are highly **concerned about the calls for “discouraging demand that foster exploitation”**.

Namely, in the past, when speaking about “end demand” or “discouraging demand that foster exploitation” it was mainly referred to demand for sex services, recommendation for criminalization of clients of sex workers and introducing the “Nordic Model” for regulation of sex work. In these cases, sex workers are by default seen as “victims of exploitation”, regardless of their own perspective and choice. This approach is constantly opposed by sex workers' rights activists and groups, because it takes away the agency of sex workers to make their own choices, it excludes them from the debate on sex work and ant-trafficking



responses; and exposes them to additional vulnerability to discrimination, violence and health risks. This approach also distracts governments and stakeholders from the adequate responses to human trafficking, victim identification, assistance and protection.

We are concerned that this recommendation will affect sex workers disproportionately, as discouraging demand or criminalization of buyers of services provided in domestic work, the garment industry, agriculture or other parts of the economy is not applied/implemented. For female workers, including migrant domestic workers, the Committee had in the past called for improvements of the legislative framework and its implementation and better working conditions; the Committee requested an end of exploitation and exploitative working conditions, rather than “End of demand” for those services, which will leave many women without income.

We urge the Committee to take the same approach to all women workers equally, to call for an end of exploitative working conditions for ALL, and address root causes of vulnerabilities for trafficking, rather than focusing on the decrease of demand, thereby putting the autonomy and dignity of sex workers, their livelihood and security at increased risk.

Comments by sections/paragraphs:

Section III Legal Framework

Requested change (insertion of new para):

- “The Committee notes that the term ‘sexual exploitation’ as utilized in this General Recommendation does not refer to all sex work.”

Reason:

- Distinction between sexual exploitation and sex work is crucial for protection of rights and health of sex workers, and reducing vulnerability to violence and exploitation within their working places. It strengthens and empowers sex workers and makes them valuable partners in addressing human trafficking for sexual exploitation. UNODC reflected on the concept of ‘exploitation’ in the Trafficking in Persons Protocol, acknowledging that sex work must not be conflated with human trafficking. It also clarified that ‘sexual exploitation’ does not refer to all sex work: “When used in the context of the Protocol, this term could not be applied to prostitution generally as States made clear that was not their intention.”

Section IV, e (title):

Requested change (deletion):

- ~~“Root causes of trafficking in women and girls and discouraging the demand that fosters their exploitation through trafficking”~~

Reason:

- Addressing “Root causes” should have a focus on social, economic and gender inequalities rather than solely focusing on “demand” as a problematic approach, and the title should refer to it accordingly.



Section IV, a, para 12:

Requested change (addition)

- “The Committee notes the limitations of existing data sets on trafficking. Sexual exploitation is the most commonly identified form of trafficking because it is more widely reported in comparison to other forms of exploitation such as forced labor or domestic servitude. Further, according the 2017 Global Estimates of Modern Slavery, of the 16 million people in forced labor exploitation, 57.6% were female.”

Reason:

- Understanding migration and human trafficking requires statistical and other data that goes beyond the narrow UNODC data to which this GR refers to. Acknowledging the fact that the most commonly documented form of trafficking is for sexual exploitation, while other forms of exploitation remain under-reported, opens possibilities for developing broader framework and understanding, and more adequate responses. For example, ILO data found 38.2% of all victims of modern slavery are in the category of forced marriage. 11.9% fell into the category of “forced sexual exploitation / CSE of children”, while 49.9% of people in modern slavery were enslaved in other forms of forces labor.

Section IV, e, para 24:

Requested change (deletion):

- “In its general recommendation no. 34 (2016) on rural women, the Committee highlighted that the economic hardships of rural life including the negative effects of climate change, high levels of poverty, restricted access to State benefits, protection and services, resulting in, inter alia, low levels of education, and low awareness on how traffickers operate, render rural women especially vulnerable to exploitation, in particular ~~in prostitution~~ and as domestic workers and in conflict-affected regions.”

Reason:

- The references given to the Committee’s own documents [General recommendation No. 34 (2016) (CEDAW/C/GC/34), para. 26; CEDAW Contributions to the 2030 Agenda for Sustainable Development (2017 HLPF)] do not mention “prostitution” in any way that supports this focus. Indeed, only the former document contains a single reference to “prostitution”, and only in quoting the precise text of Article 6.

Section IV, e, para 27 (b):

Requested change (deletion):

- ~~“Where applicable, instituting penal legislation to sanction the users of goods and services that result from trafficking in persons”~~

Reason:

- “Discouraging demand” is the main cause of conflating trafficking for sexual exploitation and sex work. It has thus far been only used as an argument for actions to decrease demand for sex services, targeting clients of sex workers (not to exploited/trafficked persons only) and promotion of the Nordic Model of regulation of sex work. Reducing demand for services has traditionally not been applied to other economic sectors (domestic work,



garment industry, etc), so emphasizing demand puts sex workers at risk and supports their victimization, rather than promoting empowerment and protection; and the main goal of this document – elimination of all forms of discrimination against ALL women.

Section IV, e, para 27 (d):

Requested change (deletion):

- “Investigating, prosecuting and convicting all perpetrators involved in the trafficking of persons, ~~including those on the demand side.~~”

Reason:

- The phrase ‘including those on the demand side’ is liable to be misinterpreted and/or misapplied to target sex workers and their clients, thus putting sex workers at increased risks of violence, discrimination, unsafe sex practices, loss of income and economic insecurity, while victimizing and depriving them of their voice and autonomy.

Section IV, g, para 58:

Requested change (restructuring and additions):

- Move para 58 ‘Employment and labor framework’ in its entirety to make it new para 27, so that it is applicable to the overarching State obligation to address the root causes of trafficking.
- Clause a): “Introduce, strengthen, and enforce employment legislation designed to protect all women workers, including women migrant workers, irrespective of level of skill or the sector in which they work, or whether they are in the formal or informal economy, the 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.”
- Clause f): “Facilitate the self-organization and unionization of women workers, including in particular women migrant workers in unregulated or unmonitored labor sectors.”

Reason:

- We acknowledge and appreciate the Committee’s responsiveness to addressing the structural links between labor exploitation and trafficking. The Committee’s recommendations in this respect are progressive and far reaching and should be made applicable to women workers in general, including woman migrant workers, irrespective of the sector they work – formal or informal.

Section VI, a, para 92 ‘Adverse collateral effects of anti-trafficking efforts’:

Requested changes (additions):

- Clause b): “Ensure that raids conducted by law enforcement authorities with a view to dismantling trafficking networks do not justify or result in criminal prosecution or other



coercive measures, including gender-based violence, abuse and harassment, against any group of women, particularly sex workers who are the group most often subject to such coercive measures;"

- Clause c): "Ensure that no group of women, is targeted for investigation or prosecution, discrimination, stigmatisation, or suffers from the lack of rights and protections, under the guise of combatting trafficking, including violations of their rights to movement, assembly, health and safety, to dignity and livelihood. This must include sex workers who are most often targeted. States should cease such targeting and ensure these groups of women are afforded their full rights and protections;"
- Clause d): "Discontinue anti-trafficking measures that involve the apprehension, detention and involuntary rehabilitation of women, which are often experienced as antagonistic and traumatic. Sex workers are particularly targeted for such measures and this is an abuse of their human rights as well as an abuse of State powers;"
- Clause e): "Ensure that anti-trafficking efforts are not used as a means to deport migrant women with an irregular immigration status. Anti-trafficking efforts are often inappropriately used by States as part of a wider anti-migrant, and specifically anti-sex work, narrative. States must put clear measures in place to prevent this."

Reason:

- We need more specific definitions and clarity in regards to anti-trafficking measures and sex work, since we are constantly witnessing how anti-trafficking measures are used by police to conduct raids on workplaces. Whilst these raids are publicly justified under the guise of 'rescuing victims of trafficking', they are mostly immigration and anti-sex work raids. Migrant sex workers caught in such raids are typically either arrested and detained as criminals or taken to shelters as victims