Submission from Nordic Model Now! to the CEDAW Committee on Trafficking in Women and Girls in the Context of Global Migration

*February 2019*

# About us

Nordic Model Now! is a UK grassroots women’s group campaigning for the abolition of prostitution and for the Nordic Model (also known as the Sex Buyer Law). All members are unpaid volunteers and the group includes survivors of prostitution. See <http://nordicmodelnow.org/> for more information.

# Introduction

We support much of the [Concept Note](http://www.ohchr.org/Documents/HRBodies/CEDAW/Trafficking/ConceptNote.pdf)[[1]](#endnote-1) for the General Recommendation on Trafficking of Women and Girls in the Context of Global Migration. However, we have some key concerns and consider it imperative that the General Recommendation:

* Covers the whole of CEDAW Article 6.
* Is informed by the full definition of human trafficking.
* Is fearless in naming uncomfortable reality.
* Addresses all of the complex interconnections.
* Includes a reference to the 1949 Convention.
* Includes the exploitation of women’s reproductive capacities.

We set out our reasoning under separate headings below.

For simplicity, in this document we use the term **sex trafficking** to refer to the trafficking of women and girls for the purpose of the exploitation of their prostitution and other forms of sexual exploitation.

# The General Recommendation must cover the whole of CEDAW Article 6

CEDAW Article 6 states:

“States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”

This sentence implies that the human trafficking of women and the exploitation of women’s prostitution are intrinsically linked. It would therefore be a profound mistake to take the first part of the sentence and not the second. If the General Recommendation were to apply to almost any of the other articles, it might be reasonable to address a single one of the subsidiary points. But Article 6 is a unitary whole. It is therefore misleading to take one part of it and leave the other.

According to the [dictionary](http://nordicmodelnow.org/facts-about-prostitution/fact-cedaw-requires-countries-to-fight-pimping/),[[2]](#endnote-2) the primary meaning of ‘exploitation of prostitution of women’ is ‘profiting from women’s prostitution.’ This, profiting from women’s prostitution, is the purpose of the vast majority of human trafficking of women and girls. How can we address the human trafficking of the most vulnerable women and girls if we do not acknowledge, understand and address its most common purpose?

This is particularly important given that in several places the Concept Note incorrectly implies that trafficking is a problem only of the supply of victims rather than their continuing exploitation.

The General Recommendation should therefore be named the ‘General Recommendation on Trafficking of Women and Girls and the Exploitation of the Prostitution of Women in the Context of Global Migration.’ If the name remains unchanged, the Introduction must make it clear that the document covers the whole of Article 6, including the obligation to suppress the exploitation of the prostitution of women, and this must then be reflected throughout the document.

The Concept Note states that the General Recommendation ‘will not broach a policy discussion on the theme of prostitution.’ We do not understand this. The exploitation of prostitution **is** the purpose of the majority of human trafficking of women and girls. To have a document about human trafficking of women and girls without discussing prostitution is therefore like having a policy on drinking without mentioning water.

# The General Recommendation must be informed by the full definition of human trafficking

The General Recommendation must be informed by, and refer to, the whole of the internationally agreed definition of human trafficking that is set out in the [Palermo Trafficking Protocol](http://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx).[[3]](#endnote-3)

The Concept Note omits sub-paragraphs (c) and (d) of the definition, which relate to the trafficking of minors. These sub-paragraphs make it clear that the recruitment, transportation, transfer, harbouring or receipt of a person under the age of 18 for the purpose of exploitation must **always** be considered trafficking in persons even when no force, coercion, abuse of power or position of vulnerability, etc. has been used.

Once the full definition is understood, it becomes clear that human trafficking covers the ongoing exploitation of persons, not only their movement. In fact the movement of the victim is not required to meet the definition.

The definition explicitly separates the ‘exploitation of the prostitution of others or other forms of sexual exploitation’ from ‘forced labour or services.’ This implies that prostitution and other forms of sexual exploitation cannot be considered a form of labour or services.

We are disturbed that the Concept Note uses the term ‘forced prostitution,’ which suggests that prostitution is not problematic if it is not forced. The Palermo Trafficking Protocol definition makes no such distinction: simply profiting from a woman’s prostitution or exploiting her sexually in any other way is sufficient to meet the test.

The Concept Note also implies that prostitution is a form of labour and not in and of itself a most egregious form of male violence against women and girls. For example, Paragraph 30 says:

“Women and girls are being trafficked for the purposes of: sexual exploitation, including **forced prostitution**, sexual entertainment, travel for sexual exploitation, sexual slavery, forced and “contractual” marriage, begging, domestic servitude and domestic labour, and, organ transplantation. The listed purposes of trafficking perpetuate **gender-stereotypes of work** and are often driven by male exertion of power and control over women, thereby **increasing their risk of gender-based violence and abuse**. In the Committee’s view these practices are incompatible with the equal enjoyment of rights by women and their dignity.” [Our emphasis]

Taken as a whole, this paragraph suggests that prostitution, even ‘forced prostitution,’ is a form of regular labour, in contravention of CEDAW Article 6, the Palermo Trafficking Protocol definition, and the [1949 Convention](http://www.ohchr.org/en/professionalinterest/pages/trafficinpersons.aspx).[[4]](#endnote-4) In addition, the suggestion that being trafficked for ‘forced prostitution’ increases the victim’s **risk** of gender-based violence obscures the fact that being sex trafficked **is** a human rights abuse and a gross form of gender-based (i.e. male) violence.

The Concept Note has several other such unacceptable examples of muddled thinking and reluctance to name the reality and use the internationally defined terminology.

If the General Recommendation is not clear and fearless in naming and describing the reality, it will be of little, if any, use in clarifying either the problem or the solutions that state parties have an obligation to implement.

We believe that by rigorously understanding, using and applying the Palermo Trafficking Protocol definition and the full text of Article 6, such confusion can be avoided.

# The General Recommendation must be fearless in naming uncomfortable reality

Nowhere does the Concept Note spell out that it is men’s demand for prostitution and pornography (and the profits that can be made from them) that drives sex trafficking.

Instead the document uses terms like ‘demand fostering the trafficking of women and children,’ ‘gender-stereotypes of work,’ ‘gender-stereotyped services of trafficking victims,’ and ‘the advancement in technological innovations, including the Internet…’

Men still control the great bastions of power globally and in most, if not all, countries in the world. This male hegemony is maintained through age-old structures that systematically subordinate and oppress women and girls, including the institution of prostitution and the deliberate and systematic withdrawal of independent economic resources from women and girls, particularly mothers.

In the context of a planet whose natural resources are close to exhaustion, global capitalists are desperate for easy profits, and they increasingly see women’s bodies, sexual organs and reproductive capacities as a key new arena for primitive accumulation of capital.

These forces mean that there is enormous pressure to obscure not only the way that the systematic oppression of women and girls works, but also that the bodies and humanity of women and girls are now the raw materials of predatory capitalism – from the global technology companies to individual pimps in the poorest communities.

When we speak in euphemisms about this reality, we enable governments and policy makers everywhere to look away from this terrifying reality and to disregard their obligations to protect women and girls from such human rights abuses.

The General Recommendation must therefore use clear, unambiguous, and everyday language, and where relevant, the official internationally defined terminology.

For example, the General Recommendation must clarify that:

* It is men’s demand for pornography, prostitution and related practices such as lap dancing, and the vast and easy profits that can be made from them, that drives sex trafficking.
* Pornography is a form of prostitution.
* Prostitution and other forms of sexual exploitation can never be considered regular labour or services.
* The unprecedented availability of [pornography](http://www.culturereframed.org/),[[5]](#endnote-5) and its increasing violence and misogyny, is having a catastrophic effect on sexual practices, the relations between the sexes, and the status and well-being of women and girls globally.
* Women’s and girls’ bodies, sexual organs and reproductive capacities are not, and can never be, legitimate raw materials for capitalists of any description.

# The General Recommendation must address all of the complex interconnections

We know that migrant women and girls are at particular and terrifying risk of human trafficking and that addressing this requires a gender perspective in migration and sustainable development policies and laws at local, state, regional and global level. The specific needs of women and girls must be put at the forefront of all such policies, laws and practices at all times.

But it is the normalisation and legitimisation of prostitution and pornography in developed countries and the exporting of these practices and values to the rest of the world that underpins sex trafficking. The men in Germany, New Zealand, the UK and elsewhere in developed countries, do not specifically seek out sex trafficked women. They seek out prostituted women – and care little whether they have been trafficked. There is no significant separate market for trafficked women.

Therefore to address sex trafficking, including in the context of global migration, we must address the demand for prostitution and pornography everywhere, including in the western so-called democracies. This requires a zero-tolerance approach to all forms of profiteering from prostitution and pornography, as mandated by CEDAW Article 6. This illustrates why it is so important that the General Recommendation includes the whole of Article 6.

Article 9 of the Palermo Trafficking Protocol requires countries to take effective measures to suppress the demand for prostitution that drives sex trafficking. The General Recommendation should therefore advocate that State Parties implement a [Nordic Model](http://nordicmodelnow.org/what-is-the-nordic-model/)[[6]](#endnote-6) approach to prostitution law and policy. This approach makes prostitution-buying a criminal offence in order to change men’s attitudes and reduce the demand for prostitution that drives sex trafficking. The approach also cracks down on pimps, and decriminalises women (and men and trans people) who are involved in prostitution, and provides them with services and genuine routes out of the sex trade.

Although migrant women and girls are at particular risk of being trafficked, disadvantaged women and girls are vulnerable everywhere, including in developed countries. Article 9 of the Palermo Trafficking Protocol also requires the alleviation of the factors that make women and children vulnerable to being trafficked, such as poverty, underdevelopment and lack of equal opportunity. The General Recommendation should therefore include a requirement for State Parties to address women and children’s poverty, inequality and systematic disadvantages within their own borders.

# The General Recommendation must include a reference to the 1949 Convention

We understand that there is pressure from some quarters to demand the removal from the General Recommendation of any reference to the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (the [1949 Convention](http://www.ohchr.org/EN/ProfessionalInterest/Pages/TrafficInPersons.aspx)) – on the basis that it calls for the ‘criminalisation of prostitution’ and that even partial criminalisation (e.g. of pimps and ‘clients’) has been found to have a negative impact on women involved in prostitution.

The 1949 Convention calls only for the criminalisation of traffickers and those who exploit the prostitution of others, or who procure and recruit others for the purposes of prostitution. It does not call for the criminalisation of women and others who are involved in prostitution – rather it forbids laws and regulations that specifically target those who are engaged (or suspected of being engaged) in prostitution. As such, the 1949 Convention puts women and girls’ human right to dignity and freedom from violence and sexual exploitation at its core and is an important supplement to both CEDAW and the Palermo Trafficking Protocol.

Much, if not all of the modelling and research that forms the basis of the assertion that the criminalisation of pimps and ‘clients’ makes prostitution more dangerous for women and increases the spread of HIV and other sexually transmitted infections has been shown to be [profoundly flawed](http://nordicmodelnow.org/myths-about-prostitution/myth-the-nordic-model-hinders-the-global-fight-against-hiv/).[[7]](#endnote-7)

The Committee should therefore resist in the strongest terms any pressure to not include the 1949 Convention. The General Recommendation must include this convention in the list of relevant human rights instruments.

# The General Recommendation must include the exploitation of women’s reproductive capacities

The harvesting of women’s eggs and the renting of their wombs (also known as ‘surrogacy’) for the benefit of the rich is an increasingly common form of exploitation. This is of extreme concern and must be resisted. The General Recommendation must therefore advocate that States Parties suppress all forms of exploitation (i.e. profiteering) from these practices.

We urge the CEDAW committee to advocate adding these forms of reproductive exploitation to the list of forms of exploitation in the definition of human trafficking.

We also call for these new forms of reproductive exploitation, along with prostitution itself, to be added to the list of harmful practices against women.

1. http://www.ohchr.org/Documents/HRBodies/CEDAW/Trafficking/ConceptNote.pdf [↑](#endnote-ref-1)
2. http://nordicmodelnow.org/facts-about-prostitution/fact-cedaw-requires-countries-to-fight-pimping/ [↑](#endnote-ref-2)
3. http://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx [↑](#endnote-ref-3)
4. http://www.ohchr.org/en/professionalinterest/pages/trafficinpersons.aspx [↑](#endnote-ref-4)
5. http://www.culturereframed.org/ [↑](#endnote-ref-5)
6. http://nordicmodelnow.org/what-is-the-nordic-model/ [↑](#endnote-ref-6)
7. http://nordicmodelnow.org/myths-about-prostitution/myth-the-nordic-model-hinders-the-global-fight-against-hiv/ [↑](#endnote-ref-7)