February 18, 2019

Committee on the Elimination of Discrimination against Women

Office of the High Commissioner for Human Rights

Attn: Ms. Daniela Buchmann

By E-mail: dbuchmann@ohchr.org

**Re: General Discussion on TWGCGM**

Distinguished Committee Members:

Sanctuary for Families (“Sanctuary”), World Without Exploitation (“WorldWE”), and the New York State Anti-Trafficking Coalition (the “Coalition”) respectfully submit this statement in response to the Committee on the Elimination of Discrimination Against Women’s (the “Committee”) call for submissions regarding trafficking in women and girls in the context of global migration, as considered within the framework of the Convention on the Elimination of All Forms of Discrimination against Women (the “Convention”).

Sanctuary is the largest non-governmental organization in New York State, dedicated exclusively to addressing the multi-faceted needs of survivors of domestic violence, trafficking, and related forms of gender violence. Sanctuary has served more than 1,000 survivors of human trafficking, the vast majority of whom are immigrants. Sanctuary offers legal, shelter, clinical, and economic empowerment services to survivors, advocates for policies and legislation to advance the rights of survivors and improve the response of systems to gender violence, and conducts extensive community outreach, education, and training.

WorldWE is a national coalition of organizations and individuals committed to creating a world where no person is bought, sold, or exploited. WorldWE aims to create a culture where those who have been trafficked or sexually exploited are treated as victims of a crime not criminals themselves, while those who purchase, sell, or exploit other human beings are held accountable.

The New York State Anti-Trafficking Coalition is a network of more than 140 organizations throughout New York State working to improve the State’s response to all forms of human trafficking and commercial sexual exploitation and to assist and empower victims and survivors.  The Coalition has played a leading role in strengthening New York State laws that hold accountable sex and labor traffickers and their confederates, including sex buyers, extend social services to immigrant victims, and enable victims to vacate prostitution and related convictions.

Our advocacy is deeply informed by the experiences of the survivors we serve.

**I. INTRODUCTION**

Sanctuary, WorldWE, and the Coalition provide this statement in light of the Committee’s decision to hold a half-day general discussion on the trafficking in women and girls in the context of global migration, and understands that the purpose of this discussion is to prepare the elaboration of a *General Recommendation on trafficking in women and girls in the context of global migration*.

In the preparation of this statement, we have reviewed the Concept Note[[1]](#footnote-1) described as, *inter alia*, setting the groundwork for the Committee’s elaboration of the General Recommendation and highlighting priority areas for attention.[[2]](#footnote-2) The Concept Note states that “[t]he aim of the current General Recommendation under elaboration is to interpret the definition, scope and expectations regarding States parties’ obligations in relation to article 6 of the Convention to suppress all forms of trafficking in women and girls, ensuring that the human rights of women and girls are respected, protected and fulfilled in accordance with international law.”[[3]](#footnote-3) The Concept Note further states that the “objective of this General Recommendation is to uncover the root causes of women’s and girls’ increased risk to trafficking and remaining as trafficking victims, in order that these be identified, recognized, and addressed by the States Parties.”[[4]](#footnote-4) The Concept Note requests stakeholder input on a variety of sub-themes, including themes addressing the root causes of trafficking.[[5]](#footnote-5)

While we agree with the majority of the principles contained in the Concept Note,[[6]](#footnote-6) we believe certain omissions in the proposed discussion will hinder the realization of the General Recommendation’s objective. In particular, we have serious concerns regarding the suggested omission of the exploitation of the prostitution of women from the discussion.[[7]](#footnote-7) By omitting prostitution from its definition of trafficking,[[8]](#footnote-8) the Concept Note fails to address a key provision of Article 6 of the Convention and a critical component of trafficking, thereby rendering any discussion incapable of addressing “gender equality and non-discrimination obligations.” The experiences of survivors of trafficking show that any discussion of measures to address trafficking cannot be divorced from a meaningful discussion regarding prostitution and the simultaneous cause and effect relationship it has with trafficking. The significance of the exploitation of the prostitution of women and its inextricable link to trafficking is set out below.

**II. THE LEGAL FRAMEWORK OF THE GENERAL RECOMMENDATION**

The purpose of the proposed General Recommendation is to elaborate States parties’ obligations in relation to Article 6 of the Convention, which explicitly recognizes the inextricable link between trafficking in women and the exploitation of the prostitution of women. Article 6 reads, in complete part, “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women **and exploitation of prostitution of women**.”[[9]](#footnote-9)

By connecting trafficking in women with the exploitation of the prostitution of women, the Convention records a foundational principle which has long been recognized by the United Nations. For example, the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others recognizes in the first paragraph of its Preamble that “**prostitution** **and the accompanying evil of the traffic in persons for the purpose of prostitution** are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community.”[[10]](#footnote-10)

Since the Convention, the United Nations has consistently recognized that the connection between trafficking in women and exploitation of prostitution of women cannot be severed. General Recommendation 19 (1992) expands upon Article 6 of the Convention, recognizing certain factors that lead to trafficking in women and exploitation of the prostitution of women.[[11]](#footnote-11) The definition of “Trafficking in persons” contained in the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, establishes that the exploitation component of trafficking must “at a minimum” include in its definition “the exploitation of the prostitution of others or other forms of sexual exploitation.”[[12]](#footnote-12) Most recently, on 17 December 2018, the General Assembly adopted Resolution 73/146 (“Trafficking in women and girls”) calling upon Governments to take preventative measures to address “factors that encourage trafficking in women and girls for exploitation, including in prostitution and other forms of commercialized sex.”[[13]](#footnote-13)

Thus, careful consideration of the root causes of prostitution is essential to articulate the State Parties’ obligations in relation to Article 6 of the Convention to prevent trafficking and to achieve gender equality. Reducing the analysis to trafficking alone, at the express exclusion of the factors that cause the exploitation of the prostitution of women, cannot successfully address the problem and ignores discriminatory and harmful practices the drafters of the Convention sought to address. We explore this theme in further detail below.

**III. THE INTER-RELATIONSHIP BETWEEN TRAFFICKING & PROSTITUTION**

Statistics, scholarship, and governmental findings have come to the same conclusion as the United Nations: sex trafficking and the exploitation of the prostitution of women are inextricably linked. The demand for prostitution fuels trafficking, and trafficking cannot be eradicated without curtailing and ultimately eliminating this demand.

The exploitation of the prostitution of women is an acute form of gender discrimination. Prostitution is a gendered system that perpetuates deep-seated gender stereotypes and widespread commodification of women and girls’ bodies. It socializes men and boys to regard women as objects, instills feelings of superiority and entitlement to women’s bodies, and fosters a hostile masculine self-identification and likelihood to commit acts of sexual coercion. As the Concept Note acknowledges, the system reinforces gender norms and stereotypical thinking regarding “male domination, sexual entitlement, coercion and control which drive the demand for the gender-stereotyped services” of those who are trafficked, including those who are exploited in prostitution.[[14]](#footnote-14)

The world’s most vulnerable women and girls are the most likely to be sexually exploited through prostitution or trafficking.[[15]](#footnote-15) Their vulnerabilities stem from a number of factors, including poverty, marginalization on the basis of race, caste, or ethnicity, and migrant or refugee status. Women and girls experiencing these conditions are often exploited without the actual or threatened use of physical force. One prime example is that of migrant women,[[16]](#footnote-16) a population that remains wholly unprotected under the laws of most States; the vulnerabilities of these women—due to, *inter alia*, the connection of immigration to poverty and lack of opportunity in native countries as well as the “deprived position of women in many countries”—results in a devastatingly high risk of exploitation.[[17]](#footnote-17) Women and girls who are exploited in prostitution are often found to have a history of gender-based violence, especially sexual abuse in childhood. Although physical force is used to coerce some women into prostitution, it is not the only method by which “abuse of power or from a position of vulnerability”[[18]](#footnote-18) occurs, and the force is not always so clearly tied to the exploitation. Failing to address the exploitation of prostitution when addressing sex trafficking erases the experiences of many women who may not have been physically forced into prostitution, but who still have been, and continue to be, exploited.

Practically speaking, it is often hard to draw the line between someone who is trafficked and someone who is exploited in prostitution. For example, Ms. G, a young woman who grew up in poverty and who had been sexually abused as a child, entered the commercial sex industry, assuming that she would be able to maintain control over her life and that she would make enough money to support herself and gain some financial independence. However, she quickly became subject to the control of pimps who physically abused her, at one point beating her with pistols. Ms. G was raped and beaten by many sex buyers and ultimately was able to escape only after nearly being killed by one of these men. Although at certain points of time during her 25 years of exploitation Ms. G appeared to be willingly engaging in commercial sex and was not necessarily under the control of a particular exploiter, she was never truly acting voluntarily. With no other alternatives or experience, and as a result of the many abuses she had suffered at the hands of men who bought and sold her, as well as her childhood abuse, the commercial sex industry was all she knew. Thus she became stuck in a system that exploited her at every turn. Regardless of the label one might apply to these circumstances, Ms. G had the same vulnerabilities and suffered the same types of abuse as women who are physically forced into prostitution. Ms. G’s situation demonstrates that any efforts to address the root causes of trafficking must also address those who are exploited in prostitution but may not otherwise neatly fit into a definition of trafficking.

As another survivor of trafficking, Ms. B, points out, the reality of exploitation is that those who are exploited do not acknowledge lines between trafficking and “voluntary” prostitution. A survivor of exploitation, Ms. B was preyed upon as a 16-year-old girl facing harrowing family circumstances by someone she recognized not as a trafficker or pimp, but as a boyfriend. Pressuring her to make money for him to “help” her leave her situation and start a new life, Ms. B’s exploiter persuaded her to use her body for cash—first as a dancer, and then by offering sexual services. Feeling violated by the johns who bought her body, Ms. B agreed to do something she never once felt was voluntary.

Below, we explore the importance of discussing the exploitation of prostitution of women to properly address (i) the root causes of trafficking; (ii) accountability and prevention; and (iii) access to justice and systems of support.

**A. The Commercial Sex Industry Shares In and Perpetuates The Gender Discrimination and Violence That is a Root Cause of Sex Trafficking**

One of the key sub-themes to be featured in the anticipated General Recommendation seeks to understand and address the root causes of trafficking.[[19]](#footnote-19) The commercial sex industry (and the buyers who enable it) causes trafficking in two respects. First, the commercial sex industry fuels sex trafficking.[[20]](#footnote-20) The direct correlation between increased demand for commercial sex and increased demand for sex trafficking is well documented.[[21]](#footnote-21)

Second, the commercial sex industry perpetuates gender-based discrimination, which in turn contributes to trafficking.[[22]](#footnote-22) The commercial sex industry and its buyers subscribe to a gendered ideological system, complete with stereotypes that support the feeling of male superiority over and ownership of women and the commodification of female bodies.[[23]](#footnote-23) Both buyers and sellers of trafficked and commercially sexually exploited women and girls subject them to overt acts of violence, such as battering and rape, as well as other types of unwanted and traumatizing experiences that likewise constitute abuse.[[24]](#footnote-24) Because sex trafficking is “rooted in and perpetuates gender-based discrimination” and “gender-based violence”[[25]](#footnote-25) of exactly the types caused, perpetuated, and promoted by the sex industry, addressing both at the roots is a vital step toward elimination of this exploitation.

Additionally, as the Committee recognizes,[[26]](#footnote-26) sexual exploiters tend to target women subject to more vulnerabilities, including vulnerabilities linked to race, caste, or ethnicity; and/or migrant or refugee status. Decriminalizing those who exploit women in prostitution facilitates predatory operations on already vulnerable women.

**B. Holding Trafficking Perpetrators Accountable Requires Criminalizing the Sex Industry, in Order to Hold Buyers and Traffickers Responsible**

We affirm the Committee’s emphasis on holding traffickers accountable for their crimes.[[27]](#footnote-27) Around the world, criminal justice systems have long failed to protect the survivors of trafficking and hold the perpetrators of trafficking accountable. Perpetrators of trafficking include not just traffickers, but buyers as well; yet regimes that aim to fight trafficking while refusing to criminalize the commercial sex industry draw false dichotomies between sexual exploiters that make enforcement against any of them much more difficult.[[28]](#footnote-28)

Traffickers often operate with impunity: it is difficult to successfully prosecute traffickers, and some legal regimes have decriminalized prostitution in a way that ultimately permits and encourages the trafficking of women and girls. A 2017 report by the United Nations Office on Drugs and Crime (“UNODC”) states that “[d]espite the high number of States Parties to the [Palermo Protocol] and the growing number of countries that have adopted national laws criminalizing trafficking in persons, implementation remains challenging.”[[29]](#footnote-29) In 2017, only 17,800 prosecutions and 7,045 convictions of traffickers were obtained globally.[[30]](#footnote-30) To put these numbers in perspective, the International Labor Organization has estimated that in 2016 over 40 million people worldwide were victims of human slavery, with women and girls representing the vast majority of victims.[[31]](#footnote-31)

Policies that punish the victims and survivors of trafficking and prostitution and related forms of commercial sexual exploitation impede efforts to prosecute traffickers. These can include criminal penalties on people in prostitution or undocumented workers. Legal convictions against traffickers rely heavily on the cooperation of the survivors of trafficking, who may act as informants or witnesses against pimps and other traffickers of women.[[32]](#footnote-32) However, trafficking cases present special difficulties for using victim testimony. These individuals may be suffering from the results of trauma, fear, or psychological manipulation, which may make them hesitant to testify against their exploiters, or render their testimony inconsistent or unpersuasive.[[33]](#footnote-33) Justice systems that punish survivors of exploitation in prostitution, or that fail to implement evidentiary policies sensitive to the special circumstances of survivor testimony, discourage testimony from these victims, effectively handing greater power to their exploiters. As survivor Ms. B pointed out, her exploitation led to her right back into the arms of her exploiters; not knowing the “difference” between traffickers and pimps, law enforcement released her from jail for prostitution to the exploiters who would pay her bail. As her criminal record from prostitution charges waxed, her feelings of other job options waned, and her vulnerabilities to exploitation turned into a circular experience as exploiters preyed upon her need for help.

Traffickers and sex buyers cannot be held accountable if they are allowed to operate with legal impunity, as they are in legal regimes that have decriminalized the commercial sex industry. Permitting (and even encouraging) the commercial sex industry legitimizes and therefore solidifies the bonds of domination and control that exist between pimps and women and girls in prostitution, not only legally but in public perceptions about trafficking in women and girls. Additionally, justice systems that condone the exploitation and prostitution of women through the commercial sex industry empower traffickers by expanding the demand for women in prostitution, making it easier for traffickers to profit from their exploitation and subjugation.[[34]](#footnote-34) For instance, the number of trafficked women in Germany, where the commercial sex industry operates legally, is 62 times that of Sweden, where the commercial sex industry is prohibited, even though Germany’s population is only ten times that of Sweden.[[35]](#footnote-35) Denmark, where the commercial sex industry operates legally, has four times the number of trafficking victims than that of Sweden, even though Sweden has a 40% larger population.[[36]](#footnote-36) These statistics reveal that legal operation of the commercial sex industry is incompatible with the goal of holding traffickers accountable for their crimes, because trafficking grows where the commercial sex industry is permitted.

In order to truly combat sex trafficking and to hold perpetrators accountable, States parties and their criminal justice systems must consider the exploitation of women in prostitution and trafficking in tandem. The failure to do so hinders the ability to truly understand the factors allowing this system to proceed, and to assess what mechanisms might work to curtail continuing exploitation of the most vulnerable members of our societies.

**C. Women and Girls Exploited in Prostitution Deserve the Same Protection and Services Accorded to Other Survivors of Gender Violence**

The Concept Note further identifies the importance of addressing in the General Recommendation access to justice and services to victims of trafficking.[[37]](#footnote-37) We respectfully maintain that excluding “the exploitation of prostitution of women” from a framework that analyzes trafficking threatens the ability of women and girls who are exploited in prostitution to access necessary services, to escape violence and build stable lives free from exploitation. Women and girls exploited in prostitution deserve the same protection, respect, and services accorded to other survivors of gender violence, shifting the stigma to those who exploit women and girls for profit or pleasure.[[38]](#footnote-38)

It is impossible to end trafficking of women in legal regimes that condone punishing women and girls who are exploited in prostitution or that confer immunity on their exploiters. Such regimes fail to investigate, prosecute, and punish those who exploit women and girls in prostitution, thereby revictimizing the exploited and giving exploiters legal license to harm women and girls.

Unfettered access to legal services therefore must be provided to women and girls exploited in prostitution, just like those who fall under the definition of those who have been trafficked. That the women and girls exploited in prostitution come from circumstances of vulnerability—poverty; marginalization on the basis of race, caste, or ethnicity; and/or migrant or refugee status—exacerbates this need. For example, one of our Sanctuary clients, Ms. F, worked as a photographer in China before being trafficked to the United States by one of her photography customers who tricked her into believing that she would have a picture-perfect life in the United States. The customer forced Ms. F to stay in a motel where she was raped and robbed and prevented from calling the police. After Ms. F escaped, she was then coerced into living and working in massage parlors, where she was forced to provide sexual services. These experiences highly traumatized Ms. F, leading to the need for legal and holistic services to avoid being exploited by vulnerabilities all over again.

Women who appear to have “voluntarily” entered into the world of prostitution are subject to the same vulnerabilities, the same pressures to continue providing sexual services, and the same traumatic effects. Excluding these women from the discussion around how to combat trafficking and to provide support for those who have been trafficked is extremely problematic. This false distinction reduces the ability of exploited women and girls to receive treatment for their physical and psychological injuries and to seek educational and economic opportunities and ignores the reality of the situation underlying those exploited in prostitution.

People exploited in prostitution are routinely subjected to rape and other extreme forms of physical, sexual, and psychological violence; many are killed.[[39]](#footnote-39) Women and girls in prostitution sustain levels of post-traumatic stress disorder comparable to those of war veterans.[[40]](#footnote-40) Many develop substance abuse problems as a way to cope with trauma.[[41]](#footnote-41) Many suffer reproductive and various other health problems.[[42]](#footnote-42) Sometimes these vulnerabilities are linked, as in the case of exploitation survivor Ms. B, whose prescription medications following a pregnancy and birth resulting from a rape by her exploiter led to substance abuse, exposing her to further exploitation.

The exploitation of women and girls in prostitution denies these women and girls the human right to education, essential for the exercise of all other human rights, and leaves them severely economically disadvantaged.[[43]](#footnote-43) Because many are exploited in prostitution starting at a young age,[[44]](#footnote-44) they are deprived of educational and work-related opportunities essential to economic independence and the attainment of an adequate standard of living. The stigma attached to prostitution across legal regimes[[45]](#footnote-45) further impedes their ability to access economic opportunities, as does the physical and psychological injury they suffer as a result of their exploitation.

We see the impact of the many harms associated with exploitation in prostitution in our clients. For example, Ms. N experienced violence when she was brought to a massage parlor in North Carolina. There, customers were physically aggressive and tried to force Ms. N to provide sexual services. Ms. N fell ill while working, experiencing swelling in her hands and feet, but her boss refused to let her leave the parlor to seek medical attention. It was not until the swelling reached her face and began to impact his business that the boss finally allowed her to leave. Ms. N now receives medical treatment for the kidney failure that caused the swelling. Because of her lack of access to healthcare and economic resources, as well as the control exerted by her exploiters, Ms. N suffered far more harm than she might otherwise have.

Due to the range of experiences of the women and girls exploited in prostitution, services that recognize and address a range of physical and psychological harm are necessary to give survivors a chance to heal. All should be afforded access to the same level of services even if individuals do not fit neatly into a narrow definition of trafficking. In order to provide protection and services to those who need it most, these services must apply to those exploited in prostitution.

**IV. CONCLUSIONS & RECOMMENDATIONS**

We urge you to consider the exploitation of the prostitution of women in connection with any discussion surrounding trafficking, including but not limited to the root causes of trafficking and exploitation in prostitution, the problem of demand, and the need for inclusive and holistic services and support for those who have been exploited and who remain deeply vulnerable. Any recommendations to States parties should take this connection into account. Failing to do so would be to ignore women and girls who have been exploited in prostitution—individuals who most need our help.

We thank you in advance for your consideration of these comments.

Sincerely,

|  |  |  |  |
| --- | --- | --- | --- |
| Dorchen A. LeidholdtDirector, Center for Battered Women’s Legal ServicesSanctuary for Families | Lauren SigLauren HershNational Director World Without Exploitation | Dorchen A. LeidholdtCo-ChairNew York State Anti-Trafficking Coalition |  |

1. *Concept Note prepared for the Committee on the Elimination of Discrimination against Women on its elaboration of a General Recommendation on Trafficking in Women and Girls in the Context of Global Migration*, <https://www.ohchr.org/Documents/HRBodies/CEDAW/Trafficking/ConceptNote.docx> (“Concept Note”). [↑](#footnote-ref-1)
2. Concept Note, ¶ 4. [↑](#footnote-ref-2)
3. Concept Note, ¶ 3. [↑](#footnote-ref-3)
4. Concept Note, ¶ 51. [↑](#footnote-ref-4)
5. Concept Note, ¶ 54. [↑](#footnote-ref-5)
6. For example, we in large part agree with themes described in the Concept Note such as the gendered nature of trafficking, the unprecedented global and internal migration flows, and the developments driving demand in trafficked women and girls, among others. [↑](#footnote-ref-6)
7. The Concept Note states at ¶ 53 that “[t]he scope of the General Recommendation will be restricted to focusing on the gender equality and non-discrimination obligations that must be upheld by States parties in all anti-trafficking interventions. It will not broach a policy discussion on the theme of prostitution.” [↑](#footnote-ref-7)
8. The excerpt of Article 6 of the Convention provided in the Concept Note omits key language regarding the exploitation of prostitution of Women. *See* Concept Note, ¶ 5 (quoting the Convention as stating “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women […]”). [↑](#footnote-ref-8)
9. Convention on the Elimination of All Forms of Discrimination against Women, A/RES/34/180 (1979) (“Convention”), art. 6 (emphasis added). [↑](#footnote-ref-9)
10. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, A/RES/317(IV) (1949) (“The 1949 Convention”), preamble (emphasis added). [↑](#footnote-ref-10)
11. General Recommendation 19, CEDAW (1992), ¶¶ 13-16. [↑](#footnote-ref-11)
12. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, A/RES/55/25 (2000) (“The Palermo Protocol”), art. 3 (“‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. **Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation**, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” (emphasis added)). [↑](#footnote-ref-12)
13. Trafficking in women and girls, A/RES/73/146 (2018), ¶ 16. [↑](#footnote-ref-13)
14. Concept Note, ¶ 25. [↑](#footnote-ref-14)
15. Concept Note, ¶¶ 25-27, 31. [↑](#footnote-ref-15)
16. *See* Vincenzo Musacchio, *Migration, Prostitution and Trafficking in Women: An Overview*, 5 German L. J. 1015, 1020 (2004) (“Working in the sex industry is no mere sum total of personally preferred or privately chosen behavior patterns, but undoubtedly an organized system – which has now been globalized and industrialized – with links to the criminal world. . . . Even though many migrant women working as prostitutes say they are independent, they face various pressures and few do not end up without procurer control of one kind or another.”). [↑](#footnote-ref-16)
17. *See* Musacchio (2004) at 1019 (“There seems to be worldwide agreement on the fact that trafficking in human beings and migration connected to it is blossoming because of the gap between poor and rich countries, the lack of opportunities for young people to build up an existence, and the deprived position of women in many countries, which make them especially vulnerable for exploitation in this industry.”); *see also* Nora V. Demleitner, *The Law at a Crossroads: The Construction of Migrant Women Trafficked into Prostitution*, in Global Human Smuggling: Comparative Perspectives (David Kyle & Rey Koslowski eds.) (2001). [↑](#footnote-ref-17)
18. The Palermo Protocol, art. 3. [↑](#footnote-ref-18)
19. Concept Note, ¶ 54 (“. . . Effective prevention measures for all forms of trafficking in women and girls, including an understanding of the different root causes; Responsibility of States parties, in view of the Sustainable Development Goals, to create conditions to address the root causes of trafficking; . . .”). [↑](#footnote-ref-19)
20. In regimes which allow commercial sex, “the legal commercial sex industry acts as a cover for the illicit industry, making it harder to track the illegal market.” *See* Ane Mathieson, Easton Branham, Anya Noble, *Prostitution Policy: Legalization, Decriminalization, and the Nordic Model*, Seattle J. Soc. Just. 14(2), 388 (2015). [↑](#footnote-ref-20)
21. *See, e.g.*,Mathieson et al., *supra* n.20, at 402-03 (illegal commercial sex led to drop in purchase of sexual services and decrease in trafficking); *See also* Abigail L. Kuzma, *Demand Reduction: Critical Next Step in the Fight Against Sex Trafficking*, Int’l L. News, 42(4), 28, (“[I]t is the demand for commercial sex that truly fuels sex trafficking.”). Where commercial sex is available and the demand for the sale of sex increases, this leads also to an increase in exploiters rising to supply for that demand. *See* Kuzma at 28. [↑](#footnote-ref-21)
22. The Committee recognizes at ¶ 25 of its Concept Note that “trafficking is rooted in and perpetuates gender-based discrimination.” [↑](#footnote-ref-22)
23. *See* Kathleen Barry, *Prostitution of Sexuality: Global Exploitation of Women* (1995) at 33 (“[w]hen it is treated as a thing to be taken, the human being is rendered into a thing, an objectification that not only violates human rights but also destroys human dignity, which is a fundamental precondition to human rights.”); Melissa Farley et al., *Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder*, 2 J. of Trauma Practice 33, 34 (2003), (“Prostitution dehumanizes, commodifies and fetishes women.”). [↑](#footnote-ref-23)
24. *See* Mathieson et al., *supra* n.20, at 385-86 (criminal gangs, working as pimps and bodyguards, had been using extreme violence against women in the legal, licensed sector of the industry for as long as ten years despite the presence of brothel inspectors); Farley et al., *Prostitution and Trafficking in Nine Countries*, at 34 (71% of people in prostitution surveyed were physically assaulted and 63% were raped). [↑](#footnote-ref-24)
25. Concept Note, ¶ 25. [↑](#footnote-ref-25)
26. Concept Note, ¶¶ 25, 26, 27, 31. [↑](#footnote-ref-26)
27. Concept Note, ¶ 54. [↑](#footnote-ref-27)
28. *See* Marlise Simons, *Amsterdam Tries Upscale Fix for Red-Light District Crime*, N.Y. Times (Feb. 24, 2008) (quoting Mayor of Amsterdam Job Cohen saying “[legalization] hasn’t worked, that trafficking in women continues.”); *see also* Mathieson et al., *supra* n.20,at 387 (explaining brothel inspections in Amsterdam were unsuccessful because pimps monitored women when interviewed making them unable to reveal the true conditions). [↑](#footnote-ref-28)
29. *Evidential Issues in Trafficking in Persons Cases: Case Digest*, United Nations Office on Drugs & Crime 2 (2017).  [↑](#footnote-ref-29)
30. Trafficking in Persons Report, June 2018, U.S. Dep’t of State 43 (2018). [↑](#footnote-ref-30)
31. *Global estimates of modern slavery: forced labour and forced marriage*, Int’l Labor Org. & Walk Free Foundation 5 (2017). [↑](#footnote-ref-31)
32. *See Evidential Issues in Trafficking in Persons*, *supra* n.29 at 11 (“[V]ictim testimony seems to be the most relied upon source of evidence in human trafficking cases.”). [↑](#footnote-ref-32)
33. *Id.* at 12 (“[I]nconsistencies among statements may arise from a wide range of reasons, including lapses in memory, confusion about the chain of events or traumatic reactions.”). [↑](#footnote-ref-33)
34. *See* Donna M. Hughes, *The “Natasha” Trade: The Transnational Shadow Market of Trafficking in Women*, Special Issue of J. Int’l Affairs, 14 (2000) (“. . . [e]vidence seems to show that legalized sex industries actually result in increased trafficking to meet the demand for women.”). [↑](#footnote-ref-34)
35. Seo-Young Cho, Axel Dreher & Eric Neumayer, *Does Legalized Prostitution Increase Human Trafficking?*, 41 World Development 67-82, 75 (2013). [↑](#footnote-ref-35)
36. *Id.* [↑](#footnote-ref-36)
37. Concept Note, ¶ 54. [↑](#footnote-ref-37)
38. *See* Julie Bindel & Liz Kelly, *A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden, London Metropolitan University*, 78 (2003) (examining the Nordic Model and noting “[decriminalizing women] not only changes their legal status, but how they are seen and treated by others.”). [↑](#footnote-ref-38)
39. *See, e.g.*, Melissa Farley et al., *Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder*, 2 J. of Trauma Prac. 33, 34 (2003), http://www.prostitutionresearch.com/pdf/Prostitutionin9Countries.pdf (70% to 90% of prostituted individuals surveyed were physically assaulted, and 60% to 75% were raped). [↑](#footnote-ref-39)
40. *See* Max Waltman, *Sweden’s Prohibition of Purchase of Sex: The Law’s Reasons, Impact, and Potential*, 34 Women’s Studies Int’l Forum 449-474, 452 (2011) (68% of women in a nine country study met criteria for PTSD “and symptoms were higher or equal to that of treatment-seeking Vietnam veterans” and PTSD symptoms were found “regardless of whether prostitution was legalized or criminalized”). [↑](#footnote-ref-40)
41. *See Testimony Before the House of Representatives Committee on Energy and Commerce, Subcommittee on Health, Examining H.R., the Trafficking Awareness Training for Health Care Act of 2014* (Sept. 11, 2014) (testimony of Laura J. Lederer), <http://docs.house.gov/meetings/IF/IF14/20140911/102647/HHRG-113-IF14-Wstate-LedererL-20140911.pdf> (“Many survivors reported being dependent upon drugs or alcohol while they were being trafficked, either because the substances were forced on them as a control mechanism by their traffickers, or because substance abuse was a means of coping with their dire circumstances.”). [↑](#footnote-ref-41)
42. Melissa Farley, *Bad for the Body, Bad for the Heart: Prostitution Harms Women Even if Legalized or Decriminalized,* 10 Violence Against Women 1087, 1097 (October 2004) (“exhaustion, frequent viral illness, STDs, vaginal infections, back aches, sleeplessness, depression, headaches, stomachaches, and eating disorders” are prevalent among women in prostitution, as well as “increased risk of cervical cancer and also chronic hepatitis.”). [↑](#footnote-ref-42)
43. In violation of the International Covenant on Economic, Social and Cultural Rights, art. 2, G.A. Res. 2200 A (XXI) (1966) (“ICESCR”), art. 13. [↑](#footnote-ref-43)
44. *See, e.g.*,Holly G. Atkinson, Kevin J Curnin & Nicole C. Hanson, *U.S. State Laws Addressing Human Trafficking: Education of and Mandatory Reporting by Health Care Providers and Other Professionals*, 2(2) J. of Human Trafficking 111, 111 (2016) (noting studies have found the “average age of entry into the commercial sex industry for girls is around 12 to 14 years old”). [↑](#footnote-ref-44)
45. *See* National Legislation on Prostitution and the Trafficking in Women and Children,European Parliament, Policy Dep’t C*, Citizen’s Rights and Constitutional Affairs*, ID No. IPOL/C/FEMM/ST/2004-05, at xi, 104 (Sept. 2005) (“Even though it is regulated in several areas of the country, prostitution is considered ‘a contravention of public morality (*sittenwidrig*)’ and sex workers are greatly stigmatized”). [↑](#footnote-ref-45)