**CEDAW Half-Day of General Discussion**

**General Recommendation on Trafficking in Women and Girls in the Context of Global Migration - 22nd February 2019**

***Keynote Speech, UN Special Rapporteur on trafficking in persons, especially women and children, Ms. Maria Grazia Giammarinaro***

Madame Chair

Your Excellences’

Ladies and Gentlemen

I thank the CEDAW Committee for giving me the opportunity to contribute to this important General Recommendation on Trafficking in Women and Girls in the Context of Global Migration.

According to **2018 UNODC Global Report**, most of the trafficking victims detected across the world are females: mainly adult women, but also increasingly girls. Almost **75%** of the detected victims of trafficking for **sexual exploitation** are females, and **35 %** of the victims trafficked for **forced labour** are also females, both women and girls. The UNODC report also found an increase in the number of **internal trafficking** cases, such as **domestic servitude**, which largely affects women and girls. Most of the victims detected globally are trafficked for sexual exploitation, although this pattern is not consistent across all regions.

Trafficking in persons is primarily a **human rights violation**, which disproportionally affect women and girls, including in the context of global migration and conflict and post-conflict settings, therefore, it is key that it is addressed within the international human rights framework and by human rights bodies, like the CEDAW Committee.

In my latest report to the General Assembly in October 2018,[[1]](#footnote-1) I advocated for a human rights and gender sensitive approach to trafficking in persons, including within the Security Council agenda, through its mainstreaming in the women, peace and security agenda, in addition to being addressed as a threat to international peace and security. In that report, I also recalled **general recommendation No. 30 (2013**) on women in conflict prevention, conflict and post-conflict situations, in which **the CEDAW Committee** first linked the provisions of the Convention with trafficking in persons and armed conflicts. However, despite the inclusion of trafficking in the CEDAW Convention and its recognition as a form of gender-based violence, **understanding of trafficking in persons as a gendered phenomenon has only slowly gained acceptance**.

In my last report to the UN Human Rights Council, presented in June 2018,[[2]](#footnote-2) I also addressed trafficking in the context of global migration and found that indeed **trafficking in persons is often interlinked with mixed migration movements**. People do not necessarily enter mixed migration movements as trafficked persons, but might become trafficked during their journey or when they reach a transit or destination country.

Please allow me to convey some recommendations drawn from my recent reports to the General Assembly and the Human Rights Council, which are directly applicable to some of the sub-themes identified in the CEDAW concept note informing the discussion on the General Recommendation:

Sub-theme 1: On effective prevention measures for all forms of trafficking in women and girls, including an understanding of different root causes

Poverty, displacement, economic hardship and unemployment, especially among young people and global restrictive migratory policies, gender inequality, discrimination and stereotyping, coupled with strong traditional practices and beliefs are often identified as the main root causes of trafficking in persons.

A gender-sensitive approach to prevention and protection of trafficked persons must be put at the centre of every anti-trafficking response and must be seen as instrumental to ensuring more effective investigation and prosecution of traffickers

Some concrete recommendations on prevention of trafficking and protection of trafficked persons, especially women and girls, include:

1. Adopt a **gender perspective when designing refugee camps** and pay attention to the particular needs of women and girls who are refugees, including during repatriation, resettlement, rehabilitation, reintegration and post-conflict planning and reconstruction;
2. Give due consideration **to early warning signs, including indicators of vulnerabilities to trafficking**, especially in refugee, internally displaced persons camps and host communities, and in the proximity of military barracks and peacekeeping forces;
3. Strengthen anti-trafficking laws to include all forms of exploitation and adopt comprehensive national action plans to implement those laws, including in conflict and post-conflict settings;
4. Establish and/or adapt **innovative, gender-sensitive and child-friendly models for early identification** for victims and potential victims of trafficking in mixed migration flows, different from the existing identification procedures which, in most cases, are conditional upon cooperation in judicial proceedings
5. Identify and tackle root causes and factors increasing vulnerabilities to trafficking, such as displacement, economic and gender inequality, poverty, unemployment and disruption of support systems, in close **consultation with families, communities and religious and traditional leaders**

Sub-theme 2: Clarify the intersections of States parties’ legal obligations on combatting trafficking and promoting safe, regularly and orderly migration:

It is alarming to witness increasing tendency **to place migration within the law enforcement paradigm, and to present migration-related measures as part of the fight against organized crime, including human trafficking**, with little attention to human rights concerns. Throughout my mandate, I have been relentlessly advocating for safe and regular migration channels, including, most recently, in Marrakech at the margins of the adoption of the **Global Compact on Migration (GCM).**

Particularly in this context, I have advocated that trafficking should be mainstreamed in the implementation of all GCM’s objectives: for instance, it should be properly integrated in **objective 6**, in relation to the commitment to promote ethical recruitment policies, as in the context of labour migration, trafficking can occur for the purpose of forced labour and labour exploitation. Importantly, trafficking should be dealt with in relation to **objective 10 on migrants in vulnerable situations**, who should not be considered as another category of migrants to be singled out. Procedures based on confidential interviews for protective purposes should be established, aimed at **identifying indications of vulnerability**, and help every migrant to navigate regulations, and identify a viable solution based on available protection systems including asylum, child protection system, and anti-trafficking. Paths for additional protection schemes should also be identified.

In my 2018 report to the Human Rights Council on early identification of victims and potential victims of trafficking,[[3]](#footnote-3) I pointed out that in places **of first arrival it is very difficult to distinguish trafficked persons and smuggled person**s, as it is impossible at this stage to gather evidence which can be valid in a criminal proceedings. For this reason, we have to listen to migrants – women, men or children – who tell a story in which elements of violence, abuse or exploitation are possibly present. This must be the basis for a vulnerability assessment and subsequent decisions in terms of protection measures.

In the implementation of the GCM, governments must ensure a gender and child-sensitive approach in combatting trafficking in persons in mixed migration flows; this implies, for example, to **ban children immigration detention, and avoid biased profiling of migrant women** expected to be helpless and deprived of any agency, only in this case considered as migrants deserving protection.

Sub-theme 3: Clarity on the number of trafficking victims placed in detention and the number of perpetrators also detained

Current **migration policies criminalizing undocumented migrants, that can include victims or potential victims of trafficking**, often recur to immigration detention, which further violates the rights of the most vulnerable ones. It is hence important to focus on more effective identification procedures at an early stage, especially in large mixed migration movements.

In addition, **criminalization of victims of trafficking forced to commit crimes** is still widespread at present. in this regard, it is important to advocate for legislations that include a non-punishment and non-prosecution provision for victims of trafficking, in line with OHCHR Recommended Principles and Guidelines on Human Rights and Human trafficking which highlight that: “Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.” (Guideline 4.5, among others)

Sub-theme 4: Access to justice for survivors of trafficking

Under international law, States obligations extend to situations based on acts or omissions committed either by State actors or by actors whose actions are attributable to the State, or through the State’s failure to exercise **due diligence** to prevent, investigate, or punish abuses by non-State actors. This approach requires States to adopt a gender-sensitive approach in all aspects of the **right to an effective remedy**, through which victims of trafficking exercise their access to justice. According to the ‘Basic principles on the right to an effective remedy for victims of trafficking in persons’, the right to remedy should include ‘restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition’ and reflect a victim-centred and human rights-based approach, that empowers victims of trafficking in persons and respects fully their human rights.

The issue of access to justice for survivors of trafficking in persons will also be at the centre of my next thematic report to the Human Rights Council, to be presented in June 2019. In particular, the report will focus on **challenges and innovative and transformative models of social inclusion for survivors of trafficking in persons**. In the report, I will argue, among others, that social inclusion is part of States’ obligations as it is directly related to the right to an effective remedy. I also argue that investing in long-term social inclusion of survivors of trafficking in persons should be the ultimate goal of States’ policies and legislations focusing on victims’ assistance and protection. This should be done also in countries of destination which instead tend to engage in collective and, often forced, returns of vulnerable migrants that might not have been properly identified as victims of trafficking. Social inclusion can be achieved by looking for innovative solutions regarding skill acquisition and job opportunities, including in cooperation with the private sector. Furthermore, pre-conditions of social inclusion are actions aimed at reducing the stigma associated with women’s exploitation and at providing them with access to healthcare, social security, training and education, and independent accommodation.

In addition, providing valuable alternatives to survivors of trafficking should aim at **women’s empowerment** and should be seen as an opportunity to overcome traditional gender roles associated with traditional engendered professions (sewing, hairdressing, etc.) that still constitute the focus of skill-acquisition programs aimed at survivors of trafficking. This approach continues to relegate women at the margins of society and contributes to further re-trafficking. It is hence key to include the participation of women in the anti-trafficking agenda, by recognizing the important contribution that survivors of trafficking can, on a strictly voluntary basis, make to developing and implementing anti-trafficking interventions, in line with OHCHR Recommended Principles.

I thank you.

1. A/73/171 [↑](#footnote-ref-1)
2. A/HRC/38/45 [↑](#footnote-ref-2)
3. A/HRC/38/45 [↑](#footnote-ref-3)