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**General Recommendation on Trafficking in Women and Girls in the Context of Global Migration:**

**Submission to the United Nations Committee on the**

**Elimination of all Forms of Discrimination Against Women**

May 2020

Submitted by the **APROASE, A.C.**

**(Organización de Mujeres Trabajadoras Sexuales Mexicanas)**

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APROASE, A.C. is an organization of Mexican female Sex Workers founded in 1985 and a member of the Latin American Platform for Sex Workers (PLAPERTS) and of the Global Network of Sex Work Projects (NSWP).

In Mexico, organized sex work is criminalized under Federal and State punitive laws that link it to trafficking in persons for the purpose of sexual exploitation. This generates high vulnerability to all kinds of violence, stigma and discrimination and lack of opportunities among sex workers. As women, we ask the Committee to recommend that the Federal Law Against Trafficking in Persons in Mexico be reviewed, since being punitive has led to the imprisonment of our community leaders. We need to be taken into account as women with rights and we need our activity to be respected as work. We also need the respect for the our decisions about our bodies and for the exercise of our sexuality as a right. We recognize that human trafficking is a crime and that no woman should be sexually exploited and there is a clear difference between sex work and human trafficking.

We have the right as any person to organize and form our working groups to guarantee better health and safety conditions for the exercise of our work. We are against the criminalization of third parties, the closure of related businesses and the criminalization of those who provide services to us as this leaves us without work and vulnerable to poverty and lack of opportunities. Women sex workers are convinced that we can contribute to reducing human trafficking by working on specific actions with governments. We have shown that we are not the problem, instead we can be part of the solution if they just stop seeing us as victims and we come as women with knowledge who make use of our sexual and reproductive rights.

Because the conflation of sex work and trafficking is the main problem we suffer, in fighting trafficking within the sex industries, we recommend changing the terminology used in the whole document.

**KEY CONCERNS & RECOMMENDATIONS**

Section III Legal Framework

**Requested change (insertion of new para 9):**

* “The Committee notes that the term ‘sexual exploitation’ as utilised in this General Recommendation does not refer to all sex work.[[1]](#footnote-1)”

**Reason:**

* Defining sex work as ‘sexual exploitation’ exacerbates the vulnerability of sex workers and results in human rights abuses. The conflation of sex work with ‘sexual exploitation’ and with trafficking is a major factor in perpetuating coercive and precarious working conditions in sex work, leads to harmful legislation that limits sex workers’ access to justice and services. 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.”[[2]](#footnote-2)**

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:**

* “Demand” is a root cause of trafficking and should be subsumed within root causes, not placed alongside them.

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 labour or domestic servitude.[[3]](#footnote-3) Further, according the 2017 Global Estimates of Modern Slavery, of the 16 million people in forced labour exploitation, 57.6% were female.[[4]](#footnote-4)”

**Reason:**

* The GR is based solely on narrow UNODC data and would benefit greatly from a broader, more nuanced, framework that reflects the modern reality of the phenomenon of modern slavery and human trafficking. UNODC also note the serious gaps and weaknesses in trafficking data, noting that the fact that sexual exploitation is the most commonly identified form of human trafficking, may be the result of statistical bias, “By and large the exploitation of women tends to be visible, in city centres, or along highways. Because it is more frequently reported, sexual exploitation has become the most documented type of trafficking, in aggregate statistics. In comparison, other forms of exploitation are under-reported: forced or bonded labour; domestic servitude and forced marriage; organ removal; and the exploitation of children in begging, the sex trade, and warfare.”[[5]](#footnote-5) 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 labour.

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**

* This clause is a barely-veiled attempt to focus solely on buyers of sex work and push for the introduction of the Nordic Model that has immense adverse human rights impacts on sex workers. This position is also incongruous with the CEDAW Committee’s existing body of work on Article 6 that so far, that rightly, does not indicate an equivocal espousal of client criminalisation strategies as an effective method to ‘discourage demand’. The CEDAW Concluding Observations on Article 6 have included recognising the adverse human rights impact of client criminalisation on sex workers[[6]](#footnote-6) and recommending implementation of labour frameworks to *“prevent and combat other exploitative practices assimilated to trafficking”[[7]](#footnote-7)*.

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.

Section IV, g, **para 58:**

**Requested change (restructuring and additions):**

* Move para 58 ‘Employment and labour 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-organisation and unionisation of women workers, including in particular women migrant workers in unregulated or unmonitored labour sectors.”

**Reason:**

* We acknowledge and appreciate the Committee’s responsiveness to addressing the structural links between labour 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, not just women migrant workers in order for their gender transformative impact to be realised.

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 much put clear measures in place to prevent this.”

**Reason:**

* We acknowledge and appreciate the Committee’s responsiveness to previous comments about the misuse by authorities of anti-trafficking legislation by authorities, and their recognition of sex workers as targets for this misuse, however we ask for more specificity to ensure clarity, and to measure States’ compliance and implementation of the General Recommendation.
1. United Nations Office on Drugs & Crime, 2015, “[Issue Paper The Concept of ‘Exploitation’ in the Trafficking in Persons Protocol](https://www.unodc.org/documents/human-trafficking/2015/UNODC_IP_Exploitation_2015.pdf)”. [↑](#footnote-ref-1)
2. NSWP, 2019, “[Briefing Note: Sex Work is not Sexual Exploitation](https://www.nswp.org/sites/nswp.org/files/briefing_note_sex_work_is_not_sexual_exploitation_nswp_-_2019_0.pdf)”. [↑](#footnote-ref-2)
3. UNODC, 2018, “[Global Report on Trafficking in Persons](https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf)”. [↑](#footnote-ref-3)
4. ILO & Walk Free Foundation, 2017, “[Global estimates of modern slavery: Forced labour and forced marriage](https://www.ilo.org/global/publications/books/WCMS_575479/lang--en/index.htm)”. [↑](#footnote-ref-4)
5. UNODC, 2009, “[Global report on Trafficking in Persons](https://www.unodc.org/documents/Global_Report_on_TIP.pdf)”. [↑](#footnote-ref-5)
6. CEDAW/C/NOR/CO/9, para 28 [↑](#footnote-ref-6)
7. CEDAW/C/CHE/CO/4-5, para 29 [↑](#footnote-ref-7)