The Committee on the Elimination of Discrimination against Women

Via: cedaw@ohchr.org

12.05.2020

**Submission in response to the call for comments on the**

**Draft General Recommendation on trafficking in women and girls in the context of global migration**

**About Australian Women Against Violence Alliance**

Australian Women Against Violence Alliance (AWAVA) is one of the six National Women’s Alliances funded by the Australian Government to bring together women’s organisations and individuals across Australia to share information, identify issues and contribute to solutions. Our focus is on responding to and preventing violence against women and their children. Our role is to ensure that women’s voices and particularly marginalised women’s voices are heard by Government, and to amplify the work of its member organisations and Friends and Supporters. Our members include organisations from every State and Territory in Australia, representing domestic and family violence services, sexual assault services, services for women in the sex industry and women’s legal services, as well as organisations representing Aboriginal and Torres Strait Islander women, young women, women educators and other groups. AWAVA's auspicing body is the Women's Services Network (WESNET).

We thank you for the opportunity to comment on the Draft General Recommendation on trafficking in women and girls in the context of global migration. We commend the Committee on the strong gender analysis underpinning the issue of trafficking of women and girls. We are in support of recommendations that call on gender-sensitive approaches to trafficking as well as delinking the support for victims/survivors of trafficking from their participation in criminal proceedings. Below are suggested additions (in green) by paragraphs.

**Paragraph 3:** AWAVA reinforced the language that “anti-trafficking measures that are gender-sensitive, **[human]** rights and needs-based and evidence-led, emphasising women’s and girls’ empowerment”.

**Paragraph 9:** Under international law, the act of trafficking is defined as both a criminal offence and as a human rights violation. States parties are required to address the phenomenon not only from a criminal justice framework but also as one that respects, protects and fulfills the human rights of persons who are most vulnerable to trafficking, its victims, as set out in the Universal Declaration of Human Rights and in the core United Nations human rights treaties. The 2010 Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1) elaborated by the Office of the United Nations High Commissioner for Human Rights further provides an important soft-law framework for integrating a human rights-based approach in all anti-trafficking interventions. **[Countries have a legal obligation to correctly ensure that trafficked women and girls are not criminalized for offences relating to the fact of them having been trafficked.][[1]](#footnote-1)**

**Paragraph 25 b)**: Disaggregating data collected on victims of trafficking by sex, **[gender],** age, disability, ethnicity, nationality, immigration status, location, socioeconomic status and all forms of exploitation, under indicator 16.2.2.2 of the Sustainable Development Goals.

**Paragraph 26 b):** Providing women and girls in situations of disadvantage with access to basic services, including education, information, health care **[including mental health and sexual and reproductive health]** and employment opportunities;

**Paragraph 29 g):** Establishes, on an equal basis for women migrants, **[asylum seekers and refugees],** including irregular migrants, facilitated access to justice mechanisms to resolve complaints of exploitation and abuse;

**Paragraph 29** [add new sub-paragraph] **[Ensures that the access to services and justice for all victims/survivors of trafficking is delinked from criminal proceedings and not dependent upon the intention to raise prosecution.]**

**Paragraph 45 a):** Establish mechanisms for the identification of victims of trafficking within the asylum procedure as well as referral mechanisms to ensure that asylum claims are assessed in an age and gender, **[disability and diversity]** -sensitive procedure in order to respond to the specific protection needs of trafficked women and girls;[[2]](#footnote-2)

**Paragraph 61** [add new sub-paragraph] **Ensure that access to essential services and financial assistance for women and girls who have been trafficked is granted irrespective of their visa status.**

**Paragraph 66:** A challenge in identifying female victims of trafficking is the lack of gender-sensitivity of relevant professionals, including front-line professionals, that is needed to adequately understand, identify and respond to incidences of trafficking in women and girls, particularly as victims are often hidden in non-public areas such as private residences, isolated factories and farms, and brothels and private apartments used for commercial sexual exploitation.The victims, themselves, may lack awareness that they are subject to a criminal act, may not know where to report the crime or may be reluctant to engage with law enforcement and other state agents due to uncertainty about legal processes or for fear of being placed in detention and deported, particularly in the case of people with an irregular immigration status. Their experience of trauma may also impede their ability to seek help. Victims may choose not to disclose their traffickers for fear of retaliation against them, their children or other members of their families. **[Services working on issues related to violence against women and girls need to be appropriately trained to identify trafficking situations. Their lack of training may serve as another barriers to identification of victims.]**

**Paragraph 67:** Elimination of discrimination in access to health care is an urgent issue for trafficked women and girls who are at an increased risk of physical and psychological injury, gender-based violence, death, sexual exploitation and abuse, pregnancy and reproductive health issues, and contracting sexually transmitted diseases, including HIV, at various stages of the trafficking cycle. Migrant victims of trafficking, particularly those in irregular migration situations, face administrative, linguistic, cultural and other barriers in accessing health services, including fear of retaliation from perpetrators and fear of being denounced by health service professionals for their irregular immigration status. The development of standard operating procedures for trafficking victim identification and the training of health workers on providing a gender-sensitive response are key to assisting trafficked women exit from exploitative situations. **[States are required to put measures in place to ensure that information shared with health workers in relation to any disclosure of trafficking by women especially those on temporary visas, seeking asylum or with an irregular visa status cannot be used to the detriment of the woman or any of her dependents, including cancellation of a visa, deportation or any other negative immigration-related consequences. Information sharing protocols must emphasise safety of women and girls.]**

**Paragraph 103:** [add a new sub paragraph] [**2016 New York Declaration for Refugees and Migrants[[3]](#footnote-3) including a Global Compact on Refugees[[4]](#footnote-4) and a Global Compact for Safe, Orderly and Regular Migration[[5]](#footnote-5).]**

We thank you for the opportunity to provide input to this consultation. If you would like to discuss the contents of the submission further, please contact Dr Merrindahl Andrew, AWAVA Program Manager, using the details below.

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1. United Nations Human Rights Council, Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, Addendum, Mission to Australia, 18 May 2012 [↑](#footnote-ref-1)
2. Global Compact on Refugees of the 2016 New York Declaration on Migrants and Refugees [↑](#footnote-ref-2)
3. 2016 New York Declaration for Refugees and Migrants A/RES/71/1 <https://www.unhcr.org/57e39d987>; [↑](#footnote-ref-3)
4. For the full text visit: <https://www.unhcr.org/gcr/GCR_English.pdf> [↑](#footnote-ref-4)
5. For the full text visit: <https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf> [↑](#footnote-ref-5)