

Re: CEDAW Committee Call for comments:
 Draft General Recommendation on trafficking in women and girls in the context of global migration

Empower Foundation is a sex worker organization in Thailand with over 35 years of experience promoting opportunities and rights for women who do sex work. Empower made a [submission](file:///C%3A/Users/ACER/Documents/legal%20club/nswp/Submission%20to%20the%20CEDAW%20Committee.docx) for the "Draft General Recommendation on TWGCGM" in 2018 and is pleased to take the opportunity to comment on this first Draft of the General Recommendations on Trafficking of Women and Girls. The Covid pandemic has fallen on top of the poverty pandemic, climate pandemic and racism pandemic. We have all become much poorer, jobs have disappeared, and tens of millions of women are desperate to protect and care for their families. This GR and the leadership of the CEDAW Committee is more crucial now than ever.

**Comments and suggestions:**

**A. Introduction Paragraph 2 and Section IV: paragraphs 27 a, b, and d.**Empower was alarmed to see the thinly veiled references to “end demand” present in the introduction of the Draft GR. Although it is seemingly benign and could be applied to any industry, we know full well it will lead, not to the end of sweat factories or protection of domestic workers, but instead it will be used to target the livelihoods and decisions made by women who do sex work, especially women of color and migrant women from poorer countries. It would be disingenuous to pretend otherwise, especially when taken in conjunction with Section IV: paragraphs 27 a, b, and d. We know the CEDAW Committee has recommended many times that States must improve their labor legal frameworks and social welfare to end exploitation of women who work in other sectors. CEDAW Committee has even called for women’s equal entry and treatment in the military where the work can be fatal. In 2017 Thailand Review the CEDAW Committee supported sex worker’s call to have the criminal law removed and labor standards enforced. We would like to believe that the Committee for the Convention to End All Forms of Discrimination Against Women cannot Draft a GR that would discriminate against women who do sex work by directly threatening our livelihood and safety by calling for “end demand”.

In our submission which represented the views and experiences of Thai, Stateless, Indigenous and Migrant sex workers from Thailand, Myanmar, Laos, Cambodia, and China we gave significant testimony about the harms of further criminalizing our work, our customers, and employers. Blanket criminalization of customers and employers in a misguided attempt to end exploitation is unnecessary and does not address the crime of trafficking or violence. It is disappointing to see CEDAW Committee take this backwards step that could, if adopted, make life harder and more dangerous for migrant women especially. As one migrant sex worker said,” Our working conditions will get worse and may well take us back to the bad old days of having to live at the workplace and be dependent on others – we really will be trafficked then!.” We would like to call your attention to recent reports by the UN Business and Human Rights Working Group, and the International Organization of Migration/International Labor Organization joint [Thailand Migration Report 2019](Thailand%20https%3A/thailand.iom.int/thailand-migration-report-2019-0) that has dedicated a Chapter to addressing exploitation of migrant sex workers. More generally [the International Labor Office](.%20https%3A/www.ilo.org/global/topics/forced-labour/lang--en/index.htm.)’ data and documentation captures many of the nuances of trafficking , forced labor and exploitation.

**Comment: Introduction: Paragraph 3**

We were pleased that the GR aims to “offer practical guidance characterized by anti-trafficking measures that are gender-sensitive, rights and needs-based, and evidence-led, emphasizing women’s and girls’ empowerment as a strategic priority for sustainable development.” However, it quickly becomes clear in that the Draft GR is strongly promoting a criminal justice model i.e. investigate, prosecute, and punish traffickers.

**Suggestion: Section III. The Legal framework**

The umbrella term “sexual exploitation” and the absence of the term “sex work” causes confusion and we suggest that it needs to be made clear that the Draft GR and CEDAW Committee recognize that sex work is not automatically to be considered as sexual exploitation.

This has important ramifications for later recommendations e.g. Section V. Victim identification, assistance, and protection 68 k) that calls or a zero tolerance of sexual exploitation.

**Comment: Section III. The Legal framework Paragraphs 7 – 10**

Since 2000 a criminal justice approach has been the standard model for all countries and has failed miserably to prevent trafficking or to achieve prevention, proper support and reparations to those who have been trafficked. Millions of dollars have been spent on training of police and other law enforcement agencies which has resulted in little or no benefit to women and girls. Much of what appears in this first Draft of the GR can be found in many other international recommendations and protocols.

**Suggestion: Section IV. Root causes and discouraging the demand that fosters exploitation through trafficking**

**Title heading: Change to remove** phrase “discouraging the demand that fosters exploitation through trafficking”

In addition to our concerns raised earlier the inclusion of “end demand” terminology and ideology in the title is made redundant by **Paragraph 62 Address trafficking in corporate supply chains** which address issues of supply and demand in a clearer more comprehensive way.

**Suggestion: Section IV.** We feel it would serve women and girls better if this section were the focus of the GR. The Draft would be strengthened by a clear focus on the rights and well-being of women and girls, beginning with addressing the root causes i.e. war, poverty, climate change, and the inequalities we face because of race, sex, and class. If the root causes can be made the central to the focus of the GR, the recommendations will become more strategic. Post- Covid the GR could take the lead in laying out ways that global economic policies and practices could be reorganized to bring all women and girls closer to social and economic justice. The Draft GR could be restructured to focus on those aspects that can bring about positive change rather than simply promoting existing punitive measures which are extensively covered elsewhere.

**Suggestion: Section IV. e) 32. a) Ensure women’s meaningful participation in trafficking prevention efforts:**

The spokeswomen must be transparent and directly accountable to the organizations and communities of women and girls they represent, not just relying on individual testimony. Many sectors of women and girls impacted by trafficking are organized and well placed to ensure that the expertise and voices of women and girl victims of trafficking are included and accounted for at all stages. Groups include Domestic Worker Orgs, Sex Worker Orgs, Garment Factory Worker Orgs, and Refugee Women’s Orgs.

**Suggestion: Section IV. g) Women and girl migrants’ increased risk of being trafficked**
**Paragraphs 51, 52, 57 and 61**

Though the GR touches on important areas, In general, the Draft could benefit from a stronger analysis of the need for States to address racism, discrimination and hostile migration policies, especially those of countries in the Global North.

**Comments: Section IV 58. Employment and Labor framework**

 **58 b) Pay particular attention to monitoring sectors in which workers are at a high risk of being trafficked, such as domestic and care work, garment, construction, agriculture, food processing and fishing.
Comment:** We are a little confused that there is no mention of monitoring our workplaces. Either the Draft GR does not consider sex work as high risk, or does not recognize our work as work, meaning we will not benefit from any monitoring available to other women?

 **58 c) Recognize in law the care sectors as legitimate areas of paid work by addressing gender segregated labor markets and human trafficking into the care economy;**

**Suggestion:** Among the other things COVID19 has made visible is that caring is fundamental to life, and that we all rely on the essential, yet unwaged, work done by mothers and other primary carers. Women’s extra burden of poverty is mentioned several times in the Draft as a root cause of trafficking but it does not seem to address the core exploitation of women and girls, which is the huge amount of unwaged caring we do. In addition to improving the situation of the waged care work done outside the home, to reduse exploitation States must pay mothers and all carers a living wage. Wages for caring work done in the home or on the land, would offer security and reduce the number of women and girls who take extraordinary risks to provide for the family. Remembering that around 80% of women who do sex work are mothers, rather than ending demand, the Draft could map out a “new normal” where States are obliged to develop a robust welfare system, and the work of caring for people and the planet is valued, prioritized and importantly, paid.

**Comment : Section V. Victim identification, assistance and protection**

The Draft GR does not seem to address the issues in any substantially different way to existing protocols and instruments.

**Suggestion: Paragraph 68 j** Sex workers have been organizing on a Global level for many decades and are best placed to inform and help guide the Committee and others on all issues of sex work. It would make sense to include sex worker organizations here rather than faith-based groups as a ley actor.

**Suggestion: Section VI Victims’ access to justice**

 **Paragraph 92 ‘Adverse collateral effects of anti-trafficking efforts’:**

 **b): “Ensure that raids conducted by law enforcement authorities with a view to dismantling trafficking networks**

The Draft GR highlights the need to end entrapment and violent raids on sex work venues. Although these are undertaken in the name of anti-trafficking, they do not happen in any other sector as they rely heavily on the justification that sex work is criminal. Therefore, in order to meet this recommendation, the laws which criminalize sex work must also be repealed, which was not made clear in the Draft GR and needs to be otherwise women and girls will continue to experience this violence.

**92 ‘Adverse collateral effects of anti-trafficking efforts’ a) – e)**

As migrant sex workers, whether we are trafficked or not, all criminal justice roads lead to our detention and deportation. Forced deportation is inevitable without reference to our situation, needs or preference. Regardless of what words are used to paper over the reality, such as’ shelter’ and ‘reintegration’ it is experienced as detention and deportation. The Draft GR does not really address our detention and deportation any differently to existing protocols and instruments. The right to remain and continue working is a main priority for the majority of those of us who have been trafficked, or otherwise impacted by anti-trafficking. While ever our work remains criminal, we will continue to have our rights violated.