**GIRLS ADVOCACY ALLIANCE**

**WRITTEN SUBMISSION TO THE DRAFT GENERAL RECOMMENDATION ON TRAFFICKING IN WOMEN AND GIRLS IN THE CONTEXT OF GLOBAL MIGRATION BY THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN**

**Geneva, May 2020**

1. **INTRODUCTION**

Launched in 2016, the Girls Advocacy Alliance (GAA) is a joint initiative, which aims at eliminating Gender-Based Violence (GBV) and Economic Exclusion (EE) of girls and young women through strategic lobby and advocacy.[[1]](#footnote-1) The GAA wishes to thank the Committee on the Elimination of Discrimination against Women for the draft of the General Recommendation on trafficking in women and girls in the context of global migration. This submission treats a select number of key issues; it does not address all paragraphs in the General Comment.

We welcome the opportunity to highlight some elements that would further strengthen the General Recommendation and ensure that no child or young person is left behind, with a particular emphasis on reaching girls who face specific vulnerabilities to and impacts of trafficking in persons and the additional, related violations of their human rights.

In general, the GAA would like to recommend the Committee to strengthen the age and diversity perspective in this General Recommendation, and in its broader work, to ensure solutions are found that respond to the specific needs of victims of trafficking depending on their diverse, intersecting identities and experiences. The impact of gaps in relation to girls’ rights in international legal and policy frameworks is outlined in Plan International’s report, [Girls Rights are Human Rights](https://plan-international.org/publications/girls-rights-are-human-rights), which is an in-depth study of the status of girls in international law.

1. **SUGGESTIONS FOR ADDITIONAL AREAS OF FOCUS:**
   1. **Age**

Paragraph 6 of the draft General Recommendation recalls that States parties are obliged to promote the equal rights of girls as part of the larger community of women and recognizes the different risks and impacts for young girls, adolescent girls, and adult women. GAA welcomes the Committee’s recognition of the need for distinct attention to the fulfilment of the human rights of girls.

However, the GAA believes that, in order to address the specific vulnerabilities and barriers experienced by girls, the draft General Recommendation could be strengthened to more consistently consider the different ways in which female victims of trafficking are affected by the issue depending on their age.

Recognising that, in striving for a concise and streamlined text, it may not be possible to refer to “women and girls” throughout the General Recommendation. The GAA would like to suggest that the formulation of “female victims of trafficking”, as currently used in paragraphs 68, 82, and 98, could be used elsewhere in the text in an effort to clarify that the text applies to both women and girls. Similarly, where the text refers to “women migrants” this could be amended to read “migrant women and girls”.

The GAA would likely to recommend the Committee to review the text applying an age lens and to examine where it would be important to call on States parties to ensure that laws, policies, programmes, plans of action, and other measures are designed in an age-sensitive – as well as a gender-transformative – manner.

In certain paragraphs, the GAA would argue that it is essential to specifically reference “girls” in order to strengthen the protections and provisions for girls. These are paragraphs 14, 26, 32, 34, 40-44, 46-58, 60-61, 64-65, 67-68, 70, 72, 75-84, 86, 88, 91-93, 96, 98-99, and 102.

In certain paragraphs, the GAA would argue that it is essential to specifically reference “age-sensitive” approaches in order to strengthen the protections for girls. These are paragraphs 29-30, 41-43, 46, 57, 62, 66-68, 70-72, 84, and 88.

For other paragraphs, the GAA would like to propose more substantive additions to the text, as follows (concrete proposals for additions/amendments to existing text are in red):

* **Paragraph 6:** “The Committee recognises that regional-specific approaches are required to address the forms of trafficking in women and girls across the globe. It acknowledges that the causes, consequences and experiences of trafficking differ for young girls, for adolescent girls, and for adult women. In recalling that States parties are obliged to promote the equal rights of girls as part of the larger community of women, and that girls are more vulnerable to certain forms of discrimination, the Committee encourages States parties to adopt a nuanced and coordinated response to combatting trafficking which considers and addresses these differences according to age.”
* **Section III:** Include reference to the following relevant provisions:
  + **UN Convention on the Right of the Child, 1989:** The Convention calls for appropriate measures: to prevent the use of girls and boys in the illicit production and trafficking of drugs (art. 33); to protect them from all forms of sexual exploitation (art. 34); to prevent the abduction, sale or trafficking of children for any purpose, or in any form (art. 35); and to prevent the participation of children in armed hostilities (art. 38).
  + **ILO Worst Forms of Child Labour Convention, 1999 (No. 182):** The Convention calls for immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour (art. 1). Those measures shall be applied to all persons, girls and boys, under the age of 18 (art. 2). The worst forms of child labour are defined in article 3, which includes reference to sale and trafficking of children.
* **Section IV:** Include language to reflect the following issues in relation to root causes in humanitarian crises:
  + During and after humanitarian crises, pre-existing patterns of violence and trafficking and pre-existing trafficking routes are exacerbated. New trafficking risks emerge during humanitarian crises.
  + Children and young girls are more likely to be targets of trafficking syndicates that offer employment or education opportunities.
  + In cases where girls have been working prior to a humanitarian crisis, and lose their employment due to the crisis, the pressure to continue providing financial support to their families may lead to an increased risk of trafficking.
* **Paragraph 20:** “Trafficking in women is rooted in gender-based discrimination, gender-based structural inequality and the feminisation of poverty and compounded by growing global inequalities and the demand for cheap and/or forced labour, including the demand for sexual exploitation. In respect to trafficking in girls there is an added layer of age-based discrimination. The lack of recognition of children as rights holders and the demand for child labour are essential drivers.[[2]](#footnote-2) Women and girls continue to be the prime targets of traffickers, especially for the purpose of sexual exploitation, due to pervasive and persistent gender and age inequalities resulting in an economic, social, and legal status that is lower in comparison than that which is enjoyed by men and boys.”
* **Paragraph 26:** “Address the root causes of trafficking by: a) Identifying and ensuring equal rights and opportunities for all women and girls, in particular those facing multiple forms of discrimination; b) Providing women and girls in situations of disadvantage with access to basic services, including birth registration, education, information, health care, social protection, and employment opportunities; c) Enhancing access for women and girls to political institutions and their participation in political decision-making, d) Supporting the economic empowerment of women and girls, including through access to vocational training, credit, land, and the modern tools and inputs required for its efficient cultivation; e) Guaranteeing the right of girls to be heard, particularly in the context of international migration;”[[3]](#footnote-3)
* **Paragraph 29(g): “**Establishes, on an equal basis for migrant women and girls, including migrants in an irregular situation, facilitated access to age- and gender-sensitive complaints and justice mechanisms to resolve complaints of exploitation and abuse, in a language they understand;”
* **Paragraph 33: “**Armed conflict is one of the most significant drivers of global displacement. Trafficking in women and girls for the purposes of sexual or other forms of exploitation and violence is both a human rights violation and a threat to international peace and security. In its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee recognized that gender-based violence affects women and girls throughout their life cycle and is affected and often exacerbated in the contexts of displacement, migration, the increased globalization of economic activities, including global supply chains, the extractive and offshore industry, militarization, foreign occupation, armed conflict, violent extremism and terrorism.”
* **Paragraph 35:** Add the following sentence at the end of the existing paragraph:
  + Girls who are unaccompanied or separated from their families or other support structures due to displacement may be particularly vulnerable to being trafficked.[[4]](#footnote-4)
* **Paragraph 42:** Include the following additional recommendation:
  + Revise legislation that discriminates against women and girls in respect to the acquisition, change, retention and conferment of nationality in order to prevent statelessness;[[5]](#footnote-5)
* **Paragraph 45:** Include the following additional recommendation:
  + Determine age for girls through assessments that are child- and gender-sensitive, culturally appropriate, and which do not rely on potentially inaccurate medical methods such as bone and dental exam analysis;[[6]](#footnote-6)
* **Paragraph 50:** Add language recognising the specific risk for girls of being trafficked for child labour purposes.
* **Paragraph 66:** Include the following additional recommendations:
  + Build capacity of professionals to identify signs of trafficking including trafficking that occurs within families;
  + Ensure codes of conducts are developed with military, law enforcement, and border officials, and include the prohibition of involvement in trafficking or facilitating other worst forms of child labour;
* **Paragraph 67:** Include the following additional recommendation:
  + Ensure that actions to prevent sexual exploitation and trafficking are included across all national strategies and promote their inclusion across other sectors, such as health and education, among others;
* **Paragraph 68(b): “**Increase the early detection capacity and authority of law enforcement and border personnel, immigration and asylum authorities, labour inspectors, child protection authorities and professionals, social workers and health-care professionals […]:”
* **Paragraph 72:** Include the following additional recommendations:
  + Ensure that the principle of the best interests of the child is a primary consideration for girls who are victims of trafficking and that their right to be heard is respected;[[7]](#footnote-7)
  + Ensure that shelters have child-sensitive and child protection services that are integrated, interdisciplinary, and include individualized case management, family tracing, and reunification of unaccompanied and separated children;[[8]](#footnote-8)
  + Prevent a thematically siloed approach to coordination and ensure cohesive strategies that bring different preventative and response efforts together to address root causes of trafficking and sexual exploitation;
  + Establish clear information management structures and harmonise information management between relevant national authorities and relevant coordination groups for trafficking and sexual exploitation in order to tackle these serious protection concerns, which span multiple sectors and are difficult to track. This collaboration should involve law and border enforcement agencies, central government, local organisations, and other relevant stakeholders;
  + In the context of population movements, ensure close monitoring of unaccompanied and separated girls to prevent trafficking. Put in place special monitoring and protection measures for girl- and child-headed households;
  + Support anti-trafficking coordination structures to develop common response and referral procedures which address the needs of women and girls, joint monitoring and information sharing mechanisms, comprehensive standard operating procedures which outline relevant legal obligations, referral procedures, roles and responsibilities of services, and a shared strategy for stakeholders to actors work together during prevention, response, and coordination;
* **Paragraph 74:** Add the following sentence at the end of the existing paragraph:
  + The UN Committee on the Rights of the Child (CRC Committee) and the UN Global Study on Children Deprived of Liberty have made it clear that immigration detention is never in the best interests of the child and therefore always a child rights violation.
* **Paragraph 84:** Include the following additional recommendation:
  + Appoint legal guardians to support and represent girls who are victims of trafficking;[[9]](#footnote-9)
* **Paragraph 88:** Include the following additional recommendation:
  + Provide specialized child-sensitive legal assistance for girls to simplify testifying procedures and prevent additional trauma during court proceedings;[[10]](#footnote-10)
* **Paragraph 96: “**Restitution, compensation and rehabilitation: a) Ensure that all trafficked women and girls, irrespective of their ethnic, national or social background and legal immigration status, obtain effective protection and redress, including restitution,[[11]](#footnote-11) rehabilitation and compensation; b) Ensure that trafficked women and girls are provided with timely and comprehensive information about their right to access legal aid, compensation, and remedies in a language and manner that they can understand, regardless of their residence status;c) Financially support independent associations, legal professionals and social services centres providing legal resources to educate women and girls about their rights to equality and assist them in pursuing remedies;d) Ensure, through legislative and other means, that trafficked women and girls have a legally enforceable right to remedy and compensation through different avenues, such as criminal, civil and labour courts as well as administrative proceedings, and that victims are compensated, as far as possible, commensurate with their loss, injury and suffering; e) Adopt legislation on the organization, allocation and functioning of a special compensation fund for victims of and witnesses to traffickingand allocate sufficient funds for them. Ensure that the conditions to access funding from the compensation fund are reasonable and swift and do not place undue burden on trafficked women and girls, and are not made conditional on confiscation of assets from their traffickers; f) De-link funding and support for female victims of trafficking from their participation in the criminal justice process.”
  1. **Gender**

Paragraphs 19 and 102 of the draft General Recommendation highlight the need for States parties to take a “gender-transformative approach” to adopting and implementing anti-trafficking measures.

The GAA welcomes the Committee’s recognition of the value of a gender-transformative approach, which goes beyond addressing “symptoms” to explicitly tackle the root causes of gender inequality, particularly unequal gender power relations, discriminatory social norms and systems, structures, policies and practices. The GAA believes that this approach can result in positive changes and sustainable outcomes for girls and women, and for society more broadly.

Elsewhere in the draft General Recommendation, the Committee refers to “gender-sensitive” approaches, for example, in paragraphs 3, 29, 42, 45-46, 62, 66-68, 72, and 84.

The GAA would like to recommend the Committee to review the text applying a gender lens and to examine where use of the more progressive “gender-transformative” approach may have the potential to be more impactful. This will serve to strengthen the protections and ensure that laws, policies, programmes, and plans of action are designed in a way that addresses the root causes of trafficking in a meaningful and inclusive way.

In certain paragraphs, the GAA would argue that it is essential to reference additional specific issues that particularly affect girls. These paragraphs are:

* **Paragraphs 12-13:** Strengthen analysis of the disproportionate impact of trafficking on women and girls beyond statistics to examine the relevant, long-term impacts and additional, linked human rights violations.
* **Paragraph 21:** “In addition to […] women’s low participation in decision-making and the absence of respect for the right of girls to be heard,[[12]](#footnote-12) […].”
* **Paragraph 23: “**Women and girls at risk of being trafficked are more likely to be impoverished, […]. Furthermore, lack of birth registration has serious implications for the rights of girls and facilitates trafficking.”[[13]](#footnote-13)
* **Paragraph 25(c)(iii):** “Its potential link with bonded labour, domestic servitude, gender-based violence, and abuse, and child, early, and forced marriage;”
* **Paragraphs 26-27:** Include additional recommendations calling on States parties to challenge gender norms and stereotypes in society, which are among the key root causes of trafficking in women and girls.
* **Paragraph 67:** Include additional recommendations on the elimination of discrimination in access to health care, including mental health care, to support and enable survivors to recover from long-lasting trauma.
  1. **Diversity**

Paragraph 18 of the draft general Recommendation recognises that women are not a homogenous group and that their experiences as trafficking victims are diverse. Women and girls are not only victims; they are also survivors. The GAA welcomes this acknowledgment that girls and women at the intersections of other forms of marginalisation are often disproportionately impacted by trafficking.

The GAA would like to propose a further strengthening of paragraph 18 to highlight additional forms of discrimination faced by women and girls, and to incorporate language on intersectionality from paragraph 18 of CEDAW’s General Comment No. 28, as follows:

* **Paragraph 18:** “The Committee has acknowledged […]. Discrimination on the basis of age, sex or gender may affect women and girls belonging to groups in situations of vulnerability in different ways. Women and girls are not a homogenous group […]. Women and girls may also suffer discrimination on the basis of their nationality, race, ethnicity, sexuality, minority identity, economic or social background, legal status, or because they live with one or more disabilities. The Committee encourages States parties to consider the underpinning concept of intersectionality and to adopt and pursue policies and programmes designed to eliminate additional intersecting forms of discrimination.”[[14]](#footnote-14)
  1. **Structure**

The GAA welcomes the inclusion of Section IV of the draft General Recommendation which addresses a range of important topics. However, the GAA believes that subsections (a-d) and (f-g) do not fall naturally under the Section IV heading of ‘Root causes and discouraging the demand that fosters exploitation through trafficking’.

The GAA would like to recommend that Sub-Sections (b-c) could be included in Section III on the legal framework, and that Sub-Sections (a), (d), and (f-g) could be included under a new Section that addresses vulnerability.

Paragraph 25 outlines a range of important recommendations on data collection that the GAA believes would fit well under the current Sub-Section (a) on the disproportionate impact of trafficking on women and girls. Additionally, Sub-Section (a) could explicitly highlight the lack of adequate data, which provides the rationale for the range of recommendations on data collection.

* 1. **Additional resources**
* [General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement), UN CEDAW, 2010.
* [Girls Rights are Human Rights](https://plan-international.org/publications/girls-rights-are-human-rights), Plan International, 2017.
* [Joint General Comment No. 3 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 Committee on the Rights of the Child](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11), CMW/C/GC/3-CRC/C/GC/22, UN CMW and UN CRC, 2017.
* [Joint General Comment No. 4 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 Committee on the Rights of the Child](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11), CMW/C/GC/4-CRC/C/GC/23, UN CMW and UN CRC, 2017.
* [Sale of Children, Child Prostitution and Child Pornography](https://undocs.org/A/70/222), A/70/222, UN General Assembly, 2015.
* [The Impact of Migration on Migrant Women and Girls: A Gender Perspective](https://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/AnnualReports.aspx), A/HRC/41/38, UN Special Rapporteur on the Human Rights of Migrants, 2019.
* [The Trafficking of Girls and Young Women: Evidence for Prevention and Assistance](https://plan-uk.org/file/trafficking-of-girls-and-young-women/download?token=gXqs11ip), Plan International, Plan UK, IOM, London School of Hygiene and Tropical Medicine, 2019.
* [Trafficking in Persons, Especially Women and Children](https://undocs.org/A/69/269), A/69/269, UN General Assembly, 2014.
* [Unbearable to the Human Heart: Child Trafficking and Action to Eliminate It](https://www.unicef.org/violencestudy/pdf/2002_traff_unbearable_en.pdf), International Labour Organisation, 2002.

1. The goal of the Girls Advocacy Alliance is to ensure that governments and private sector actors make changes in their agendas, policies, and practice to end GBV and EE of girls and young women. We aim to achieve this by building the capacity of civil society organizations to hold their governments and private sector actors accountable, and by mobilising key decision-makers to address social norms and values. To this end, the GAA has an international component that conducts advocacy at the international level and provides support to local partners in ten countries in Africa and Asia. The International Programme of GAA is implemented in Geneva and New York by Plan International, Terre des Hommes International Federation, Defence for Children International, and ECPAT International. [↑](#footnote-ref-1)
2. [Unbearable to the Human Heart: Child Trafficking and Action to Eliminate It](https://www.unicef.org/violencestudy/pdf/2002_traff_unbearable_en.pdf), International Labour Organisation, 2002, p.27. [↑](#footnote-ref-2)
3. [Joint General Comment No. 4 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 Committee on the Rights of the Child](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11), CMW/C/GC/4-CRC/C/GC/23, UN CMW and UN CRC, 2017, para 35. [↑](#footnote-ref-3)
4. [Joint General Comment No. 3 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 Committee on the Rights of the Child](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11), CMW/C/GC/3-CRC/C/GC/22, UN CMW and UN CRC, 2017, para 40. [↑](#footnote-ref-4)
5. [Joint General Comment No. 4 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 Committee on the Rights of the Child](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11), CMW/C/GC/4-CRC/C/GC/23, UN CMW and UN CRC, 2017, para 26. [↑](#footnote-ref-5)
6. Ibid, para. 4. [↑](#footnote-ref-6)
7. [Trafficking in Persons, Especially Women and Children](https://undocs.org/A/69/269), A/69/269, UN General Assembly, 2014, para. 18.  [↑](#footnote-ref-7)
8. [Sale of Children, Child Prostitution and Child Pornography](https://undocs.org/A/70/222), A/70/222, UN General Assembly, 2015, para. 88(d). [↑](#footnote-ref-8)
9. [Trafficking in Persons, Especially Women and Children](https://undocs.org/A/69/269), A/69/269, UN General Assembly, 2014, para. 18.  [↑](#footnote-ref-9)
10. [Sale of Children, Child Prostitution and Child Pornography](https://undocs.org/A/70/222), A/70/222, UN General Assembly, 2015, para. 75. [↑](#footnote-ref-10)
11. [Trafficking in Persons, Especially Women and Children](https://undocs.org/A/69/269), A/69/269, UN General Assembly, 2014, para. 8-9. [↑](#footnote-ref-11)
12. [Joint General Comment No. 4 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 Committee on the Rights of the Child](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11), CMW/C/GC/4-CRC/C/GC/23, UN CMW and UN CRC, 2017, para 34-39. [↑](#footnote-ref-12)
13. Ibid, para 20-22 [↑](#footnote-ref-13)
14. [General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement), UN CEDAW, 2010, para 18. [↑](#footnote-ref-14)