Sentient

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

*Sentient* is a civil society organisation dedicated to promoting and protecting human rights. We achieve this by creating an ecosystem where communities and leaders in sustainable fashion can come together to strengthen human rights systems and deliver changes at a grassroots level.

Sentient welcomes the opportunity to provide the following observations on the United Nations (UN) Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) draft General Recommendation on Trafficking in Women and Girls in the Context of Global Migration (GR). We support the call for strategic global action by States to combat trafficking in women and girls as stated in the Global Compact for Safe, Orderly and Regular Migration and the 2030 Agenda for Sustainable Development.

Sentient would like to express its appreciation to CEDAW for its leadership in this area. It provides a key opportunity to ensure that human rights and gender equality are at the forefront of laws and policies adopted to tackle the trafficking of women and girls in the context of global migration. In this context, we suggest that the GR should provide further context relating to the COVID-19 pandemic, given its significant consequences on global migration and trafficking[[1]](#footnote-1).

Critical to this is recognising state obligations under CEDAW to take all appropriate measures to suppress all forms of trafficking in women. This includes addressing the impacts of intersectional discrimination, including on individuals at risk of discrimination on multiple grounds such as sex, sexual orientation, gender identity, social or economic status, ethnicity and disability.

Sentient strongly supports a human rights based approach to trafficking in women and girls in the context of global migration that focuses on: prevention (in particular of the structural causes of all forms of exploitation of persons, especially women and children, that leads to trafficking); detection; prosecution and compliance; and support, protection and empowerment of trafficked women and girls in the context of global migration.

1. **Paragraph 27(b) and 27(c): “instituting penal legislation to sanction the users of goods and services that result from trafficking in persons” and “instituting regulations, policies and procedures for public agencies and private businesses to identify and remove goods and services that result from trafficking in persons from their supply chains.**

Sentient strongly supports prevention, in particular of the structural causes of all forms of exploitation of persons, especially women and children, that leads to human trafficking. However, we are concerned that the criminalisation of users of goods and services that result from trafficking in persons will have unintended detrimental effects on trafficked persons and will lead to further human rights abuses. Evidenced-based assessments of criminalization-based approaches to a wide range of areas often show significant unintended consequences and harm[[2]](#footnote-2). For example, in the context of sex work, there is detailed information on the proven negative effects the “end demand and criminalisation approach” have on the security, health and economic autonomy (amongst others) of women[[3]](#footnote-3). Similar considerations apply to situations of labour trafficking. The suggested removal of goods and services from the supply chain of public agencies and businesses has the potential of curtailing trafficking. Nevertheless, the lack of additional supporting measures, such as the provision of alternative employment pathways/programmes and training opportunities for trafficking survivors left without a stable source of income, is likely to give rise to further risks and vulnerabilities for those involved. These include risks of re-trafficking, particularly in cases where trafficking bonds are especially solid and rooted in religious/other beliefs. Sentient calls for increased attention to the root causes of trafficking in view of implementing more effective preventive measures.

Furthermore, by not criminalizing users of goods and services that result from trafficking in persons the market can be regulated and thus better identify trafficking victims and decrease their number[[4]](#footnote-4). The GR must protect the human rights of some of most marginalized and stigmatised groups of women. Rather than focusing on the “end demand and criminalization” approach, Sentient recommends the GR address the root causes – gender-based discrimination, gender-based structural inequality and femininization of poverty.

Additionally, criminalisation could inadvertently penalise individuals who are unaware that the goods or services they are using are the result of trafficking in persons, which may occur for example in the context of an individual purchasing goods or services from an online website (such as clothing, technology support such as programming or various IT support). While it is unlikely that states would prosecute an individual in these instances, the inclusion, if the objective of the GR is that of imposing obligations/duties on consumers, then they should be provided with guidelines and information on “responsible purchasing”. The absence of such information is likely to yield short-term results only. Long-term impact would entail information provision, including on viable alternatives for the purchase of products at reasonable prices, based on customers’ purchasing power.

***Accordingly, we would propose that paragraphs 27(b) and 27(c) are removed from the General Recommendation.***

1. **Paragraph 62: “Address trafficking in corporate supply chains”.**

Sentient strongly supports addressing and ending trafficking in corporate supply chains. We propose that the GR should recommend that States parties require corporations to undertake a Human Rights Impact Assessment (HRIA) including in corporate supply chains. This action could assist with accountability and transparency and prevent human rights abuses such as discrimination against women as well as exploitation commonly associated with business supply chains such as modern slavery, child labour and human trafficking. The embedding of HRIA within business practices including in corporate supply chains ultimately paves the way for corporate human rights due diligence. This aligns with CEDAW’s existing jurisprudence and the views of other treaty monitoring bodies on business and human rights (e.g. General Recommendation 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities), as well as the UN Guiding Principles on Business and Human Rights, which clarifies that all business enterprises have an independent responsibility to respect human rights, and that in order to do so they are required to *exercise human rights due diligence* to identify, prevent, mitigate and account for how they address impacts on human rights[[5]](#footnote-5).

***Accordingly, we would propose that:***

***The General Recommendation recommends corporations and public institutions undertake a Human Rights Impact Assessment including in supply chains and procurement processes.***

1. For example, Oxfam’s report *Dignity not Destitute* finds that the economic crisis caused by coronavirus could push over half a billion people into poverty. This (amongst many other factors) will undoubtedly operate as a push factor for people to migrate – exposing individuals to being trafficked, within their own country or over borders.

   Oxfam, 2020. *Dignity Not Destitution. An ‘Economic Rescue Plan For All’ To Tackle The Coronavirus Crisis And Rebuild A More Equal World.* [online] Oxfam.org.au. Available at: <https://www.oxfam.org.au/wp-content/uploads/2020/04/Oxfam-Dignity-not-Destitution.pdf>. [↑](#footnote-ref-1)
2. Miller, A. and Roseman, M., 2019. *Beyond Virtue And Vice*. University of Pennsylvania Press. [↑](#footnote-ref-2)
3. According to the United Nations Office on Drugs and Crime of all the trafficking victims detected in 2016 women and girls made up 94% of those trafficked for sexual exploitation. Detailed information on the negative impacts on the “demand and criminalization” approach to sex work can be found on CEDAW’s half-day general discussion on trafficking in women and girls in the context of global migration: <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/DiscussionOnTrafficking.aspx>

   UNODC, *Global Report on Trafficking in Persons 2018*, p.28. [↑](#footnote-ref-3)
4. Working Group on Trafficking in Persons, 2010. Good Practices And Tools In Reducing The Demand For Exploitative Service. [online] Unodc.org. Available at: <https://www.unodc.org/documents/treaties/organized\_crime/2010\_CTOC\_COP\_WG4/WG4\_2010\_3\_E.pdf>. [↑](#footnote-ref-4)
5. UN Office of the High Commissioner for Human Rights, 2017. *UN Treaty Body Database*. [online] Tbinternet.ohchr.org. Available at: <https://tbinternet.ohchr.org/\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f24&Lang=en>.

   UN Office of the High Commissioner for Human Rights, 2011. *UN Guiding Principles On Business And Human Rights*. [online] Ohchr.org. Available at: <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\_EN.pdf>. [↑](#footnote-ref-5)