**TERRE DES FEMMES e. V.** · Brunnenstr. 128 · 13355 Berlin · Telefon +49.(0)30.40 50 4699-0 · Fax +49.(0)30.40 50 4699-99 · info@frauenrechte.de · www.frauenrechte.de

Spendenkonto / Number of account · **EthikBank** · BLZ **830 944 95** · Konto **3 116 000** · IBAN **DE88 8309 4495 0003 1160 00** · BIC **GENODEF1ETK**   
Geschäftskonto / Number of account · **Kreissparkasse Tübingen** · BLZ **641 500 20** · Konto **881 999** · IBAN **DE90 6415 0020 0000 8819 99** · BIC **SOLADES1TUB**

TERRE DES FEMMES e. V. • Brunnenstr. 128 • 13355 Berlin

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TERRE DES FEMMES’ comments on the CEDAW Draft General Recommendation on Trafficking in women and girls in the context of global migration

TERRE DES FEMMES is one of Germany’s largest women’s rights organizations. It is a secular non-profit organization founded in 1981, almost 40 years ago. Our focus is on combatting violence against girls and women. We concentrate on the issues of early and forced marriage, female genital mutilation, trafficking in girls and women, and domestic and sexualized violence.

TERRE DES FEMMES welcomes this Draft General Recommendation on trafficking in women and girls in the context of global migration. We hope that all signatories will do their utmost to implement the provisions contained within this Draft General Recommendation. We have a couple of comments, responses, and questions regarding the text of the Draft General Recommendation. In what follows we respond to the provisions by referring to the paragraph number in question.

**Paragraph 2:** Ending demand is key to reducing the incidence of human trafficking. We appreciate the clear statement in this draft general recommendation. Signatory states should work hard to reduce the demand that fuels the market for human trafficking for sexual exploitation and labour exploitation. We strongly recommend the introduction of a sex purchase ban to reduce the market for human trafficking.

**Paragraph 4:** Given Article 6 in the Convention, we suggest that the following words get added to the fourth sentence of this paragraph: “a life free from being trafficked and sexually exploited must be recognized as a human right…”

**Paragraph 8:** We welcome the special attention paid to the intersection between trafficking in girls and women and early and forced marriage. We frequently see these two issues treated in isolation, which hinders prevention efforts.

**Paragraph 14 and 15**: The draft general recommendation rightly emphasizes that human trafficking is gender-based violence. All too often, the gender dimension of the phenomenon gets obfuscated in discussions. All state parties should develop strategies of fighting trafficking that is sensitive to this gender dimension.

**Paragraph 20**: We appreciate that Paragraph 20 so clearly states that the roots of human trafficking are gender-based discrimination and inequality, including global inequality. It is important that the demand side is presented as equally important. In fact, we believe that reducing demand has to be the first step, and is a fairly easy step to reducing human trafficking.

**Paragraph 23**: We welcome the clear connection drawn between patriarchal norms and the different forms of gender-based violence experienced by girls and women. We welcome the recognition that temporary marriage is a form of human trafficking, but we wish that the formulation of this paragraph made clearer that these are forms of sexual exploitation of girls and women.

**Paragraph 27**: We strongly encourage the Committee to emphasize that discouraging demand for human trafficking for sexual exploitation means introducing a sex purchase ban. This would be an important step. But we are concerned about the phrasing “users of trafficked goods or services” in Paragraph 27. The term “user” is a euphemism, it should read “exploiter.” We are also concerned about the use of the phrase “goods and services.” To call the sexual exploitation occurring in human trafficking a “service” is deeply problematic. While the language of the rest of this draft general recommendation adequately reflects the occurring violence and exploitation of women, this paragraph 27 uses euphemistic terminology that hides the suffering of girls and women. We strongly encourage you to reformulate this paragraph accordingly.

**Paragraph 28**: It should be clarified in this paragraph that Goal 8 of the Sustainable Development Goals – decent work – does not mean prostitution. We have encountered reports that talk about “sex work” as a way out of poverty for women but also for girls. CEDAW should clarify that girls and women being sexually exploited in prostitution is not the decent work that is mentioned by SDS Goal 8. The UN cannot promote the sexual exploitation of women as a potential path out of poverty.

**Paragraph 32**: Women should not only meaningfully participate in prevention efforts but rather in all efforts responding to human trafficking: including the introduction of legislation to criminalize sex purchase, the development of new exit programs and support services for persons in prostitution.

**Paragraph 35**: We welcome the inclusion of “health crisis” in this paragraph. We currently observe with the Covid-19 pandemic that many states are closing support services, shelters, and in general leave victims of human trafficking in the lurch.

**Paragraph 39**: Victims of human trafficking are only rarely granted refugee status in asylum proceedings. That is the upsetting reality. We encourage the Committee to use stronger language in this paragraph. Rather than saying “may be grounds for granting,” state parties should be strongly encouraged to grant refugee status to victims of human trafficking.

**Paragraph 42**: We welcome the clear recognition of the vulnerability of girls to be forcibly married in the context of migration and conflicts. However, this draft general recommendation offers currently no recommendation on what to do with the victims of early and forced marriages and how the state parties should treat the marriages themselves. Since early and forced marriage is a human rights violation of girls, we consider these marriages to be invalid, or at the very least they should be dissolved by the state party. However, it must be clear that this invalidation of the marriage should have no negative consequences regarding asylum or resident status of the girl in question.

**Paragraph 42d)**: We recommend that you add the term “health crisis” to this list to ensure that in the future state parties are better prepared for future crisis similar to the Covid-19 pandemic.

**Paragraph 45b)**: We want to note that one clear hurdle to the right to access fair, efficient and clear asylum procedures without discrimination is often the lack of access to professional and impartial interpreters.

**Paragraph 62**: We recommend the inclusion of “sexual harassment” in addition to “sexual exploitation” in the zero tolerance policies.

**Paragraph 72i)**: Is the same degree of voluntariness and free movement appropriate for girl victims? If not, we recommend that the Committee clarify what the differences on how victims should be treated are.

**Paragraph 90**: In addition to the perpetrators of trafficking, we strongly encourage you to include the users/exploiters here as well. The culture of impunity currently means that exploiters and “sex buyers” have little to fear. This has to end, if we are to reduce the incidence of human trafficking.

**General comment**: Many women who have become victims of human trafficking for sexual exploitation are pregnant or have young children. This creates special difficulties and special needs. These issues should be better reflected in this draft general recommendation.