**Submission**



**Congregation of Our Lady of Charity of the Good Shepherd**

**to the DRAFT General Recommendation on Trafficking in**

**Women and Girls in the Context of Global Migration**

**May 11, 2020**

 **I. Introduction**

The draft General Recommendation is a well-written and well-documented recommendation containing 256 footnotes over 33 pages. While the title nuances trafficking in the context of Global Migration, many if not all the recommendations need to be applied at the country level to address and reinforce laws, procedures and practices to uphold the human rights of all trafficked women and girls.

**Paragraph 1**: Our organizations is happy to see that Article 6 of the Convention on the Elimination of All Forms of Discrimination Against Women sets out States parties’ legal obligations to “**take all appropriate measures, including legislation, to suppress all forms of traffic in women and the exploitation of prostitution of women.**”

In **Paragraph 2** we would like to have seen the inclusion of the phrase “**the demand that fosters the exploitation of prostitution of women**,” as the current framing of “demand that fosters the exploitation of women and girls, which leads to trafficking” is vague and does not recognize the statistic in paragraph 12 which states that “of all the trafficking victims detected in 2016, women and girls made up 94% of those trafficked for sexual exploitation.” Naming the potential adverse impacts of States parties’ migration frameworks on women and girls is critical to addressing the risk of being trafficked along the migration route itself.

**II. Objective and scope**

**Paragraph 6**: We particularly appreciate that the Committee highlights that the causes, consequences and experiences of trafficking differ for young girls and teenage girls from those of adult women, and that States parties are obliged **to promote the equal rights of girls,** which requires a nuanced response to trafficking that accounts for these differences.

**IV. Root Causes and discouraging the demand that fosters exploitation through trafficking**

**a.** **Women and girls are disproportionately affected by human trafficking**

**Paragraph 13** is a very important paragraph highlighting ‘the complex web of perpetrators and victim profiles, as well as jurisdictions.’ This is further elaborated in **Paragraph 16,** which highlights the scope of the convention including “the acts or omission of all perpetrators, including private persons, intimate or extended family members and intimate partners, as well as organizations or enterprises… and national corporations operating extraterritorially … and reinforced in the United Nations Guiding Principles on Business and Human and Rights.”

**c.** **Scope of application of the Convention**

**Paragraph 17** is critical, as it notes the inclusiveness of States parties obligations, which apply “without discrimination both to citizens and non-citizens, including refugees, asylum-seekers, migrant workers, migrant with irregular status and stateless persons within their territory or effective control, even if not situated within the territory.”

**e.** **Root Causes of Trafficking in Women and girls and discouraging the demand that fosters their exploitation through trafficking**

**Paragraphs 19 – 32** are very explicit and enumerate multiple and intersecting root causes while highlighting the need to discourage the demand that fosters all forms of exploitation of women and girls. It is important to also consider that many of the root causes of trafficking, including lack of decent work and access to resources (including education and decision-making power), the feminization of poverty, and the demand for cheap labor are also drivers of migration as women move in search for opportunity. **One root cause that is not adequately discussed here is the economic demand of countries of destination for cheap labor without providing appropriate legal channels and labor protection for migrant workers,** especially those in informal, seasonal and low-wage work.A gender-transformative approach is named as key to dismantling the structural and systemic conditions that deprive women and girls of their fundamental rights.

**Paragraph 24** includes the negative effects of climate change, and indicates that rural women are “especially vulnerable to exploitation, **in particular in prostitution**, and as domestic workers and in conflict-affected regions.” **The inclusion of ‘in particular in prostitution’ is extremely important, as the promotion and prevalence of prostitution is driven by demand, through the promotion of online exploitation, the sex industry, gender inequality, the persistence of patriarchy, gender roles, and misogyny, a term not mentioned in the draft. The assertion that stateless and undocumented women who are obliged to use irregular channels of migration experience further vulnerability and fear highlights the additional human rights violations faced by these women and girls who are purchased and used as commodities to satisfy demand. The lack of regular channels and regularization policies continues to fuel further acts of violence against prostituted women and girls.**

**Paragraph 27** addressed the demand issue – demand that fosters all forms of exploitation of persons, especially women and girls, that leads to human trafficking. While **sub-paragraphs a) – d)** are very explicit on strengthening legislative and preventive techniques penalizing potential users of trafficked goods and services, identifying and removing goods and services that result from trafficked persons from supply chains, and investigating, prosecuting and convicting all perpetrators, these appear to be easier to enact in relation to the production of goods. **When applied to services there can be a great dichotomy between the rhetoric and the stubborn persistence of patriarchy, misogyny, gender inequality and the prevalence of online exploitation, pornographic websites, commercial sex trade and the largely unregulated tech industry which advertises and facilitates the commodification of women and girls and the legitimatization of violence and other human rights abuses.** Something of the strong recommendation in **Paragraph 29 sub-paragraph j)** to provide judges, persecutors, criminal, financial and border police, asylum and immigration authorities and other laws enforcement officials with mandatory training in the implementation of a gender-sensitive application of anti-trafficking legislation **needs to be equally applied to the ‘the exploitation of the prostitution of other’ and broadened to include ethical and human rights-informed business practices encompassing a whole of government, whole of society approach.**

**Paragraph 30**: While national cooperation is necessary to ensure coherent policies at all levels and by all relevant stakeholders, traffickers are highly mobile, often fleeing abroad. This makes it difficult to prosecute cases, which results in impunity for perpetrators and exploiters, and a lack of access to justice for victims. International cooperation and coordination are therefore also required.

**Paragraph 32 sub-paragraph a)** The meaningful participation of women **should also include girls’ voices and insights at all stages of efforts to prevent and combat trafficking** including legislative and policy drafting. Participation should be non-discriminatory, and include women and girls regardless of migration status.

**Paragraph 32 sub-paragraph b)** The allocation of resources not only to non-governmental organizations but also to survivor networks is key to active engagement and effective participation.

**f.** **Forcibly displaced women and girls face a higher risk of being trafficked**

**Paragraph 39:** We welcome the Committee’s recognition that trafficking in women and girls breaches specific provision of the Convention and is therefore recognized as a legitimate ground for international protection in law and practice, and that gender based violence against women is one of the major forms of persecution experienced by women that may be grounds for granting refugee status and asylum.

**Paragraph 45:** We also welcome the Committee’s recommendation on assessing the impact of immigration and asylum laws on trafficking victims to ensure they do not have harmful consequences.

**g.** **Women and girl migrant’s increased risk of being trafficked**

**In paragraphs 47- 49**, we welcome the emphasis the Committee has given to the legal obligations of states to guarantee the human rights of women throughout the migration cycle, as well as the impacts of restrictive immigration policies and the lack of safe, regular pathways, decent work and labor protections for women migrants. **These impacts are especially acute for gendered, low-wage or informal work that is demanded in countries of destination.**

**Paragraph 50:** Regarding the term ‘male-centered entertainment sector’ and reference to General Recommendation No 26 Paragraph 8 which says that this sector creates ‘a demand for women as entertainers,’ this particular sector needs to be thoroughly researched and documented as it may be operated by and meet the demand of males who are patriarchal, misogynistic and exploitative of women and girls. **Regulation of ‘male-centered entertainment sectors’ ought to be included in Paragraph 58 b)** as another high-risk sector into which workers may be trafficked and **Paragraph 58 sub-paragraph d)** enforcing adequate legal sanctions against employers engaging in abusive employment and labour practices.

**Paragraphs 51-53:** We welcome to strong and critical reference to the State responsibility to ensure that migration management upholds the human rights and dignity of all migrants, and does not cause additional marginalization or vulnerability to exploitation, including through ensuring non-discriminatory access to basic services, justice, formal labor opportunities and labor protections, and freedom from arbitrary detention.

In the recommendation in **Paragraph 57** on promoting a gender-responsive safe migration framework, which is comprehensive and in line with the guiding principles of the Global Compact for Migration, **in sub-paragraph e) b.** **“for trafficked women and girls”** **could be deleted,** as irregular entry is an administrative issue and should be decriminalized for all.

**V. Victim identification, assistance and protection**

**a.** **Victim identification**

**Paragraphs 66 and 67** highlight the challenges to victim identification as trafficked women and girls are “hidden in non-public areas such as private residences, isolated factories and farms, and brothels and private apartments used for commercial sexual exploitation.” There are the added dimensions of trauma and fear, especially for irregular migrants, which impede their ability to seek help.

All points in **Paragraph 68 subsections a) to k)** are critical to the implementation of a gender- and age-sensitive, victim-centered and trauma-informed approach to combatting trafficking in women and girls but (k) “adopt a zero tolerance policy on trafficking and sexual exploitation and abuse’ is applicable not only to groups mentioned **but requires a zero tolerance of such acts across the whole of government and the whole of society. The promotion of and facilitation of sexual violence against girls and women by any sector of society provides impunity for patriarchal, misogynistic and abusive attitudes and actions.**

**b.** **Victim assistance and protection**

As an organization that engages at the grassroots to provide assistance and protection to victims of human trafficking, we strongly welcome the recommendations contained in this section that call for strengthened global political will to implement trauma-informed policies and practices for recovery and reintegration that uphold the rights and dignity of girls and women and empower them into the future, including through the provision of medical care and counseling, vocational training, residence permits and work authorization. **We recommend the inclusion of social protection to all victims of human trafficking.**

**VI. Victim’ access to justice**

**a.** **Investigations, prosecutions and punishment**

**Paragraph 86:** In addition to condemning the use of anti-trafficking interventions to justify violence through raids or entrapment operations, anti-trafficking policies and practices should also not be used to justify restrictive immigration and border policies.

We welcome the language in **Paragraph 92 sub-paragraphs a) c) and e)** which seeks to ensure that anti-trafficking legislation and directives are not misused by authorities to target “women from disadvantaged groups and women in prostitution,” to violate a person’s “rights to movement, assembly, health and safety, to dignity and livelihood,” or “to deport migrant women with an irregular immigration status.”

**b.** **Remedies for victims of trafficking**

We welcome the emphasis given in **paragraph 95** that “States parties have obligations both within and outside their territories to ensure the full implementation of the Convention,” and the call for effective international cooperation to protect the rights of victims.”

 *Thank you*