**Comments on the draft General Recommendation on Trafficking in Women and Girls in the Context of Global Migration submitted to the CEDAW Committee by Michelle Onello, Esq. (May 11,2020)**

***Paragraph 13***:

Issue: Some trafficking victims do not have citizenship even in their countries of birth so it is important to include victims that might not have official citizenship status.

Suggested Language: “….with trafficking victims being detected both in their countries of **birth** and abroad.”

***Paragraph 15***:

Issue: While Article VII of the Rome Statute refers to “trafficking” within the context of enslavement, the scope of potential linkages between international crimes, including genocide, and human trafficking is broader than listed.

Suggested Language: “…..Rome Statute of the International Criminal Court, pursuant to which **human trafficking and its consequences may be constitutive elements of a war crime, a crime against humanity, an act of torture or a constituent act of genocide**.”

***Paragraph 22:***

Issue: Parents of girls are susceptible to being lured by traffickers.

Suggested Language: “….some women and girls**, or their parents**,…”

***Paragraph 24***:

Issue 1: Other factors contributing to trafficking include land grabs as a result of development projects, drug use and production, denial of humanitarian aid and natural disasters.

Suggested Language: “….highlighted that the economic hardships of rural life including the negative effects of climate change **and natural disasters, land grabs as a result of development projects, drug use and production, denial of humanitarian aid, high levels of poverty, and** restricted access to State benefits, protection and services…”

Issue 2: Trafficking victims also fear being charged with a crime and are at risk of re-trafficking.

Suggested Language: “Their situation of vulnerability is exacerbated by fear of detention pending determination of proof of identity, **possible expulsion and possible criminal charges being lodged against them, and victims are at risk of being re-trafficked**.”

***Paragraph 25(c)***:

Issue: Data should be collected, when possible, on the number of women who are re-trafficked.

Suggested Language: “**xi. The number of women who are victims of re-trafficking**.”

***Paragraph 25(c)(iii) and 29(c)***:

Issue: The issue of forced childbirth should be addressed.

Suggested Language for 25(c)(iii): “Its potential link with bonded labour, domestic servitude, **child and forced marriage, and forced childbirth**.”

Suggested Language for 29(c): “…child and forced marriage, **forced childbirth,** debt bondage...”

***Paragraph 25(c)(iv)***:

Issue: States parties that are destination countries for trafficking should be required to perform the same level of data collection and analysis as countries of origin.

Suggested Language: “The trafficking risk factors for women and girls migrating **from, to or** within the State party.”

***Paragraph 25(d)***:

Issue: Regional efforts to combat trafficking should be encouraged.

Suggested Language: “Establishing partnerships with international **and regional** organizations….”

***Paragraph 25(f)(iv)***:

Issue: States parties should endeavor to expand reparations for victims.

Suggested Language: “Improved measures to identify, assist, **protect and provide reparations for** victims.”

***Paragraph 26***:

Issue 1: Women and girls should be offered opportunities that are equal to or greater than those offered men and boys.

Suggested Language in (b): “…basic services, **that are of an equal or higher standard as those offered to men and boys**,…”

Suggested Language in (c): “Ensuring women’s **equal** access……”

Issue 2: Often the failure of States parties to issue national identification cards is a contributing factor for trafficking.

Suggested Language in (f): “…and their children, **including by ensuring that all persons may obtain equally national identification documents**.”

Issue 3: States parties should address other governmental policies that contribute to trafficking, such as those regarding economic development projects, drug use and production, acceptance of humanitarian aid and foreign investment.

Suggested Language: “**g) Identifying and addressing any potentially disadvantageous impact of other laws, such as those regulating economic development projects, drug use and production, acceptance of humanitarian aid and foreign investment**.”

***Paragraph 28***:

Issue: The law should provide victims with reparations as well as confidentiality and other evidentiary protections.

Suggested Language: “i) Provides a harmonized approach to criminalizing trafficking at all levels of jurisdiction **and provides reparations, confidentiality and evidentiary protections for victims**;”

***Paragraph 32***:

Issue: While the language in paragraph 32 is strong, States parties are not required to include women in all government bodies that develop, implement and monitor laws and policies relating to trafficking.

Suggested Language: **“(c) Ensure that all government bodies that develop, implement and monitor laws and policies relating to trafficking include at least 30% women.**”

***Paragraph 42***:

Issue: The requirements for law enforcement officers should be higher, and include a responsibility to protect as well as a requirement to hire women law enforcement officers.

Suggested Language in (h): “…trafficking**, and require such personnel to take affirmative actions to protect victims and ensure that women make up at least 30% of all such personnel**.”

***Paragraph 43***:

Issue: As noted, victims of trafficking may also be victims of gender-based violence; in a 2018 study of trafficking of women from Myanmar to China, women in forced marriages were more than six times as likely to experience domestic violence. States parties should acknowledge this correlation by integrating their trafficking and domestic violence laws and responses and providing comprehensive services appropriate for domestic violence victims. Similar language can be included in other relevant paragraphs, e.g. 72(f).

Suggested Language: “trafficking**, who may also be victims of other forms of gender-based violence.**”

***Paragraph 46***:

Issue: States parties should also be required to protect victims from revictimization by protecting them from being re-trafficking within the destination country.

Suggested Language for (a): “retaliation**, and must be protected from retrafficking within the country of destination**.”

***Paragraph 47***:

Issue: Regardless of treaty ratification status, states parties’ have obligations under customary international law.

Suggested language: “…or acceded to **and under customary international law**.”

***Paragraph 56:***

Issue: Awareness campaigns, wherever they are provided for in this document, should take into account the need to extend outreach in local languages and to those who cannot read.

Suggested Language in (a): “Disseminate information, **including in local languages and for those who cannot read,** on safe migration…”

***Paragraph 57***:

Issue 1: Victims of trafficking should also be protected against criminal prosecution for other related crimes.

Suggested Language in (e)(b): “Decriminalization of irregular entry **and immunity from prosecution for crimes related to trafficking**…”

Issue 2: States parties could meet the obligation by providing incomplete assistance and could charge victims for these services.

Suggested Language in (e)(c): “Provision**, free of charge, of legal, social, psychological, economic and other** assistance to all women…”

Issue 3: Laws can be passed and/or instrumentalized via implementing regulations but not enforced, which is recognized in 58(d) but not here.

Suggested Language in (k) [should be (f)]: “Legislating**, implementing and enforcing** protections….”

***Paragraph 58***:

Issue: Mechanisms can be established but not given adequate human, technical and financial resources, which is recognized in other parts of the draft (e.g. 72(e)). This suggested language is appropriate for all instances where enforcement is mentioned.

Suggested Language: “Establish **and provide adequate human, technical and financial resources to** a mechanism….”

***Paragraph 62***:

Issue 1: Companies should be required to meet a specific due diligence standard.

Suggested Language in (a): “…due diligence **according to international best practices** in companies’ supply chains…”

Issue 2: The content of the code of conduct should be broadened.

Suggested Language in (c): “…sexual exploitation**, abuse and harassment**…”

Issue 3: Grievance mechanisms must have a strong mandate to investigate and resolve complaints.

Suggested Language in (f): “…retaliation**, and ensure fair and expeditious investigations and appropriate relief and remedy for such complaints**.”

***Paragraph 63***:

Issue: States parties should be required to investigate and resolve breaches of labor laws.

Suggested Language: “households**, and ensure fair and expeditious investigation of all reported breaches and appropriate relief and remedy for breaches**.”

***Paragraph 68***:

Issue 1: States parties should be required to develop comprehensive and gender-sensitive training for relevant actors and ensure that this training is mandatory and as uniform as possible across all fields, and certain relevant authorities should have a duty to report. The suggested language seeks to harmonize the trainings outlined in (b) and (k).

Suggested Language in (a): “…State party**, and identify certain authorities and personnel that are required to report any suspicion of trafficking**;”

Suggested Language in (b): “mandatory**, gender-sensitive and** systematic training on the:…

Suggested language in (b)(i): “identification**, including how to identify and protect women and girls at risk and ways to report and sanction perpetrators**;

Suggested language in (k): “those groups with the **same training protocols outlined in paragraph 68(b) above**.”

Issue 2: As mentioned above, awareness campaigns should take into account the need to extend outreach in local languages and to those who cannot read.

Suggested Language in (g): “trafficking**, including by providing outreach in local languages and to those who cannot read,** and ….”

***Paragraph 72***:

Issue 1: Victims of trafficking must be provided with comprehensive medical care, including sexual and reproductive health care.

Suggested Language in (d) and (h): “medical**, including sexual and reproductive health**,…”

Issue 2: The language in (k) and (l) is equivocal, unlike other clauses.

Suggested Language in (k): “**Support** community-based programmes….”

Suggested Language in (l): “**Provide** individualised support…”

Issue 3: Victims of trafficking should also be protected if have given birth during the course of trafficking.

Suggested Language: **“(r) Ensure that any children born to women who have been trafficked can obtain official birth and citizenship documents and ensure that such women enjoy full and enforceable custodial and parental rights under the law.”**

***Paragraph 75***:

Issue: Victims of trafficking should be accorded confidentiality and other evidentiary protections.

Suggested Language: “take into account their specific needs, **including confidentiality and other evidentiary protections,** and ….”

***Paragraph 77***:

Issue: States parties’ international due diligence obligations are broad.

Specific Language: “The international human rights framework **requires** comprehensive and effective due diligence on the part of States **to address trafficking, which includes, *inter alia*, the** responsibility to ensure **investigation and** prosecution of perpetrators and an integrated holistic approach to providing compensation**, protection, reparation** and rehabilitation for trafficking victims.”

***Paragraph 83***:

Issue: This reference should be clarified to include both a legal framework (referring to legislation and other implementing regulations) as well as a legal services framework (referring to the work done by attorneys or other representatives within that framework).

Suggested Language: “…accessible **legal and** legal services framework…”

***Paragraph 84***:

Issue 1: Awareness campaigns should take into account the need to extend outreach in local languages and to those who cannot read.

Suggested Language in (a): “ those rights**, and provide outreach also in local languages and to those who cannot read**;…”

Issue 2: Legal aid services should be free of charge for victims of trafficking.

Suggested Language in (b): “Establish accessible **and free of charge** legal aid systems…”

Issue 3: Victims of trafficking should specifically be accorded confidentiality and other evidentiary protections.

Suggested Language in (c): “due process**, and ensure confidentiality and other evidentiary protections,** before ….”

Issue 4: To ensure a uniform and comprehensive approach, these capacity-building programmes should be consistent with the training programs established in 68(b) and (k).

Suggested Language: “Design, implement and evaluate the impact of capacity-building **and training programmes, including those outlined in paragraph 68 above,** on women’s rights…”

***Paragraph 88***:

Issue: States parties have a responsibility to investigate and take action against all perpetrators, protect victims and ensure a uniform and gender-sensitive approach to training relevant personnel.

Suggested Language in (a): “Ensure the timely **investigation and** prosecution…public authorities**, including military and security personnel,** or private actors”

Suggested Language in (c): “Provide **training and** capacity building for all judicial personnel, including immigration officials, court officers, judges, prosecutors and police officers**, consistent with those outlined in paragraph 68 above,** on the….”

Suggested Language in (d): “adequate support **and confidentiality guarantees**….”

Suggested Language: **“(g) Provide for and appoint a sufficient number of women as police officers, judicial representatives and other personnel who interact with victims of trafficking**.”

***Paragraph 90***:

Issue: As written, the possibility of fines and other non-custodial sentences should not be considered, but there are situations when these remedies should be considered in addition to other punishments.

Suggested Language: “not considered as **the only** possible sanction.”

***Paragraph 91:***

Issue: Victims of trafficking should be granted a broader immunity from prosecution for acts related to, not only as a result of, trafficking.

Suggested Language: “…acts committed **related to** their trafficking situation…”

***Paragraph 96***:

Issue: Civil society organizations should also be financially supported.

Suggested Language in (c): “Financially support **civil society organizations,** independent associations…”

***Paragraph 103***:

Issue: States parties should be encouraged to work with regional organizations to address trafficking.

Suggested Language: “**f) any relevant regional treaty or protocol concerning trafficking**.”