United Nations Office in Syria

West Villa, Ghassawi Street 8

Damascus, Syria

12 May 2020

Dear CEDAW Committee,

I would like to take this opportunity to thank CEDAW for the occasion to contribute comments to the draft General Recommendation on trafficking in women and girls in the context of global migration.

I premise my recommendation as an Independent Expert who have worked for more than ten years on the case of the ‘Comfort Women’ of Asia and was a Co-Convener of the landmark Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery in Tokyo known as the Tokyo Tribunal 2000. It’s 20 years now that the struggle of the former ‘Comfort Women’ was brought to the United Nations and the international community’s attention that sexual slavery and its corresponding trafficking is a crime under humanitarian and international law.

It was also the case of the ‘Comfort Women’ that recognized that there was more than one crime that was committed against each woman - a crime of sexual slavery, trafficking and war time slave trade.

It was in that event I had the good fortune to collaborate with Dr. Patricia Viseur Sellers who was the Prosecutor of the ‘Tokyo Tribunal 2000’. The testimonies of the ‘Comfort Women’ in that Tribunal and the gravity of evidence of sexual slavery, and slave like practices compels us to pursue further this gross human rights violation as an international crime.

It is in this context that I confirm the attached letter of 06 May 2020, written by Dr. Patricia Viseur Sellers (Visiting Fellow Kellogg College, Oxford University) and Jocelyn Getgen Kestenbaum (Associate Professor of Clinical Law, Benjamin N. Cardozo School of Law) concerning trafficking and the slave trade, as an international crime, a humanitarian prohibition and a human rights violation. The current draft General Recommendation on trafficking in women and girls in the context of global migration rightly acknowledge that violations of trafficking are situated within other norms of international law.

**The suggested modifications aim to clarify and emphasize that women and girls are afforded protection from acts of the slave trade as well as human trafficking rights violations.**

It is with kind consideration that I seek CEDAW Drafting Committee members consideration to the text highlighted in *italics* below that comprise the suggested modifications for attention.

**1. To footnote 13, please consider adding the following text:**

13 *Article 1(2) of the 1926 Convention to Suppress the Slave Trade and Slavery, defines the slave trade as: “. . . all acts involved in the capture, acquisition or disposal of a person with intent to reduce him [or her] to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him [or her]; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.” The 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery updated the definition of the prohibition of the slave trade by outlawing the act of conveyance or attempting to convey by “whatever means of transport,” including aircraft. Article 8 of the* *International Covenant on Civil and Political Right states that, “slavery and the slave trade shall be prohibited in all their forms*

**2.** **In paragraph 11, please consider including the below wording:**

11. *Moreover,* combating the crime of trafficking in women and girls requires engagement of the larger protection framework stemming from international humanitarian law, refugee *law,* *international* criminal *law*, labour and i*nternational* private law, the statelessness conventions *as well as instruments in international human rights law…*

3. **In footnote 17, please consider concluding with the following sentence**:

17 This includes: child marriage of girls fleeing humanitarian crises . . . . *These acts also could be characterized as slave trading and slavery under international humanitarian law, international criminal law and international human rights law.*

4. **In paragraph 15, please note that, to date, there does not exist any jurisprudence from the international courts or tribunals based on violations of trafficking. The reference to jurisprudence, therefore, should be removed. Moreover, under the Rome Statute, trafficking could be pursued as the crime against humanity of enslavement whenever an exercise of powers of ownership over the trafficked person is proved (in addition to the chapeaux elements). Nonetheless, acts of trafficking might constitute proof of other international crimes. The suggested modifications below accord with that understanding**.

5. Trafficking in women and girls may amount to *slavery, the slave trade*, torture or cruel, inhuman or degrading treatment.4[1] The direct obligation of non-State actors to respect the prohibitions of *slavery, slave trade* and torture, as peremptory (*jus cogens*) *norms* is set out in both international humanitarian law and human rights law. 5[2] States parties’ obligation to exercise due diligence to prevent, investigate, prosecute and punish acts of trafficking is reinforced by international criminal law. ~~including jurisprudence of the international and mixed criminal tribunals and the~~ *The* Rome Statute of the International Criminal Court *recognizes that whenever trafficking entails the exercise of any or all the powers of ownership in the context of a widespread attack against a civilian population*, ~~pursuant to which~~ enslavement as ~~in the course of trafficking in women and girls may constitute a war crime,~~ a crime against *humanity may be pursued. Moreover, under customary international criminal law, acts of trafficking might also be pursued as constitutive elements of war crimes, other crimes against humanity, and/or genocide.*

**6. To paragraph 35, please consider adding the phrase “slave trading”:**

35. … Forcibly displaced women are often subjected to gross human rights violations, including risks relating to trafficking for purposes of sexual or labour exploitation, *slavery, slave trading* and servitude, including the abduction or recruitment of women and girls into armed forces and groups.

**7.** **In footnote 27, please consider the following modifications:**

27 General recommendations: No. 30 (2013) (CEDAW/C/GC/30), para. 23; No. 35 (2017) (CEDAW/C/GC/35), para. 16: ref. articles 7 (1) (g), 8 (2) (b) (xxii) and 8 (2) (e) (vi*) of the Rome Statute of the International Criminal Court provides that trafficking can constitute enslavement whenever any or all of the powers of ownership are exercised over the trafficked persons*.

8. **To paragraph 10, please consider adding the following sentence:**

10*. … Noting the distinctions between the international crime and human rights violation of the slave trade and that of trafficking in persons, the Committee recognizes that women and girls retain concurrent protections from all crimes and violations.*

Thank you very much, for the opportunity extended to civil society and independent experts to submit comments to the drafting committee for consideration. I respectfully request the Drafting Committee to consider the General Recommendation focusing more on sexual enslavement of women and girls in the context of war and conflict situations, in addition to the General Recommendation No. 30, to provide complete protection for women’s human rights under article 6 of the Convention.

For more than a decade my work for justice for ‘Comfort Women’ has proven that sexual slavery was part of war slave trade using women’s bodies as part of the war machinery. It is with sincere and deeply heartfelt wish that I ask the members of the Drafting Committee to consider said recommendations as part of the legacy of the ‘Comfort Women’ whose painful testimonies was meant for the future generation of women and young girls that they may not suffer the same fate again.

Sincerely yours,

Indai Sajor

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PS. Please be advised that you may post my comments to the Draft CEDAW General Recommendations website.