

DRAFT

Committee on the Elimination of Discrimination against Women

**DRAFT General recommendation on Trafficking in
Women and Girls in the Context of Global Migration**

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I. Introduction

1. Article 6 of the Convention on the Elimination of All Forms of Discrimination Against Women (the Convention) sets out States parties' legal obligation to "take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women". Despite the plethora of existing anti-trafficking legal and policy frameworks at the national, regional and international levels, trafficking in women and girls remains pervasive globally. Perpetrators enjoy widespread impunity and women and girls continue to be subjected to extreme forms of gender-based violence, constituting a violation of their human rights and an obstacle to their achievement of substantive equality. The call for strategic global action by States to combat trafficking in women and girls is echoed in the Global Compact for Safe, Orderly and Regular Migration and the 2030 Agenda for Sustainable Development.

2. According to the Committee on the Elimination of All Forms of Discrimination Against Women (the Committee), the phenomenon persists due to States parties' failure to effectively address the root causes of trafficking in women and girls and to discourage the demand that fosters the exploitation of women and girls, which leads to trafficking. An inquiry into the experience of women and girls on the move, both those forcibly displaced and those who choose to migrate, reveals the potential adverse impact of States parties' migration framework on women and girls and the resulting risk of being trafficked. Inadequate attention to women's and girls' experiences as victims of trafficking results in low rates of identification, assistance and protection. Restrictive migration policies and over-reliance on the criminal justice system to address trafficking in women and girls are barriers for victims' access to justice and other services including health and psychosocial support.

3. This general recommendation sets out practical guidance on how to overcome this impasse using a gender transformative approach – characterized by anti-trafficking measures that are gender-sensitive, rights and needs-based, and evidence-led, emphasizing women's and girls' empowerment as a strategic priority for sustainable development. It affirms States parties' obligation of due diligence to prevent, investigate, prosecute and punish trafficking in women and girls, to protect victims as well as to provide reparations.

II. Objective and scope

4. The Committee is mandated by article 21 of the Convention to develop general recommendations with the aim of clarifying States parties' obligations to combat discrimination against women and girls in the current context.¹ Discrimination is defined in Article 1 of the Convention as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment and exercise by women of all human rights and fundamental freedoms.² Article 2 of the Convention identifies the legal obligations of States parties to respect, protect and fulfill women's right to non-discrimination and to the enjoyment of substantive equality with men.³ The Committee advances that a life free from being trafficked must be recognized as a human right and appropriate conditions must be created for that right to be fully exercised by women and girls.⁴ The requirement for States parties to pursue by all appropriate means a policy of combatting trafficking is of an immediate nature; delays cannot be justified on any grounds.⁵

¹ General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 2.

² General recommendations: No. 28 (2010) (CEDAW/C/GC/28), para. 4; No. 36 (2016) CEDAW/C/GC/36, para. 21.

³ General recommendation No. 28 (2010) (CEDAW/C/GC/28), paras. 9 and 16.

⁴ General recommendation No. 36 (2016) CEDAW/C/GC/36, para. 21.

⁵ General recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 21.

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5. The Convention provisions are mutually reinforcing to provide complete protection for women's human rights.⁶ The general recommendation links article 6 of the Convention with all other articles and the existing Committee's jurisprudence, including its concluding observations on the reports of States parties under the Convention, earlier general recommendations, and its consideration of individual communications and conduct of inquiries under the Optional Protocol to the Convention.

6. The Committee appreciates the regional-specific approaches required to address the forms of trafficking in women and girls across the globe. It acknowledges that the causes, consequences and experience of trafficking differ for young girls and teenage girls from that of adult women. In recalling that States parties are obliged to promote the equal rights of girls as part of the larger community of women⁷, it encourages States parties to adopt a nuanced response to combatting trafficking which takes into account these differences.⁸

III. Legal framework

7. The internationally-accepted legal definition of trafficking in persons is contained in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (A/RES/55/25) (2000):

Article 3. (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

8. The Committee appreciates that the definition of trafficking in persons extends beyond situations where physical violence has been used or the victim's personal liberty has been deprived. Particularly in the case of girls, trafficking is constituted simply when a trafficking act has been committing for the purpose of exploitation. Its examination of States parties' reports reveal that the abuse of a position of vulnerability, the abuse of power and the culture of impunity are the most common means used to commit the trafficking crime, and that victims are often subjected to multiple forms of exploitation such as in cases where women and girls are trafficked for sham, forced, child/early and/or servile marriage⁹, as well as for sexual exploitation, forced labour and domestic servitude¹⁰.

9. Under international law, the act of trafficking is defined as both a criminal offence and as a human rights violation.¹¹ States parties are required to address the phenomenon not only from a criminal justice framework but also as one that respects, protects and fulfills the human

⁶ General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 6.

⁷ General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 21.

⁸ General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 21.

⁹ Report of the Secretary-General, *Trafficking in women and girls*, A/73/263 (2018), para. 15; Report of the Special Rapporteur of the Human Rights Council on the sale of children, child prostitution and child pornography, *Sale of children, child prostitution and child pornography*, A/71/261 (2016), para. 54; CEDAW/C/MYS/CO/3-5.

¹⁰ A/HRC/33/46 (2016), paras. 8, 28; A/HRC/35/37/Add. 1 (2017), paras. 13, 17-18; CEDAW/C/BDI/CO/5-6.

¹¹ Article 6 of the Convention read with Article 3 of the Trafficking Protocol.

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rights of persons who are most vulnerable to trafficking, its victims, as set out in the Universal Declaration of Human Rights and in the core United Nations human rights treaties.¹² The 2010 Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1) elaborated by the Office of the United Nations High Commissioner for Human Rights further provides an important soft-law framework for integrating a human rights-based approach in all anti-trafficking interventions.

10. Noting the distinction between the smuggling of migrants and trafficking in persons, the Committee highlights the particular vulnerability of smuggled migrants to being trafficked.¹³

11. Combatting the crime of trafficking in women and girls requires engagement of the larger protection framework stemming from international humanitarian, refugee, criminal, labour and private law and the statelessness conventions.¹⁴ The Convention reinforces and complements the international law regime for trafficking victims, particularly where explicit gender equality provisions are absent from international agreements.¹⁵

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

a. Women and girls are disproportionately affected by human trafficking

12. 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; 35% of those trafficked for forced labour; and 57% of those trafficked for other purposes.¹⁶ 72% of all detected trafficking victims worldwide in 2016 were women and girls.

¹² UDHR, article 2, 3 and 28; International Covenant on Civil and Political Rights and its First Optional Protocol; International Covenant on Social, Economic and Cultural Rights and its Optional Protocol; International Convention on the Elimination of All Forms of Racial Discrimination; Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; Convention on the Rights of the Child and its Optional Protocols on the sale of children, child prostitution and child pornography and on armed conflict; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; Convention on the Rights of Persons with Disabilities and its Optional Protocol. See also UN Trafficking Protocol, article 2 (b).

¹³ Article 3 of the Protocol against the Smuggling of Migrants by Land, Sea and Air that supplements the United Nations Convention against Transnational Organized Crime defines smuggling of migrants (A/RES/55/25) (2000) as: “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national.”

¹⁴ Geneva Conventions (I, II, III and IV), 1949, and the Additional Protocols I and II, 1977, relating to the protection of victims of international and non-international armed conflict respectively; Rome Statute of the International Criminal Court, 1998; United Nations Convention Against Transnational Organized Crime, its Trafficking Protocol, and its Protocol against the Smuggling of Migrants by Land, Sea and Air, 2000; Convention Relating to the Status of Refugees, 1951, and its Protocol, 1967; Conventions relating to the Status of Stateless Persons, the 1954, and on the Reduction of Statelessness, 1961. Also see General Recommendation No. 32 (2014) (CEDAW/C/GC/32), paras. 9-10; Declaration on Violence Against Women (art. 2); Convention to Suppress the Slave Trade and Slavery, 1926, and its Supplementary Convention, 1956; ILO Convention No. 29 Concerning Forced and Compulsory Labour, 1930, its Protocol, 2014, and Forced Labour (Supplementary Measures) Recommendation (No. 203), 2014; ILO Convention No. 105 Concerning the Abolition of Forced Labour, 1957; ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999; and ILO Convention No. 189 Concerning Decent Work for Domestic Workers, 2011, and Domestic Workers Recommendation (No. 201), 2011.

¹⁵ General recommendations: No. 32 (2014) (CEDAW/C/GC/32), para. 10; No. 30 (2013) (CEDAW/C/GC/30), para. 19

¹⁶ UNODC, *Global Report on Trafficking in Persons 2018*, p.28.

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The Committee is particularly concerned regarding the trends of trafficking in women and girls¹⁷ as well as the role of technology in the recruitment of victims. These practices subject women and girls to grave risk of gender-based violence and abuse.¹⁸ The Committee identifies the higher risk faced by women and girls subjected to multiple and intersecting forms of discrimination, particularly women and girls in poverty, living in remote areas, forcibly displaced women and girls and women and girl migrants.¹⁹

13. The crime of trafficking is characterized by a complex web of perpetrator and victim profiles, as well as jurisdictions, often implicating private persons, corporations, State-mandated actors and officials. Its victims include both citizens and non-citizens, with trafficking victims being detected both in their countries of citizenship and abroad.²⁰ The crime may take place entirely within one jurisdiction but often involves the crossing of one, or several, international borders. International pathways of human trafficking often align with international migration flows; with many detected cases involving victims trafficked from lower to higher GDP countries.²¹

b. Trafficking in women and girls constitutes gender-based violence against women

14. In its general recommendation No. 19 (1992) on violence against women, the Committee clarified that discrimination against women included gender-based violence²² the prohibition of which has evolved into a principle of customary international law.²³ Recognizing the gender-specificity of the forms of trafficking in women and girls and its consequences, including harms suffered, the Committee acknowledges that trafficking in women and girls is

¹⁷ This includes: child marriage of girls fleeing humanitarian crises (A/71/303 (2016), para. 34; A/72/164 (2017), para. 20; A/72/164 (2017), paras. 27, 40; CEDAW/C/TUR/CO/7); sexual exploitation in refugee camps, temporary reception centres and informal settlements (A/72/164 (2017), para. 35); recruitment of women forced to sell their babies (A/71/261 (2016), para. 41) or give them up for adoption (CEDAW/C/MHL/CO/1-3); forced begging (A/HRC/34/55/Add. 1 (2016), para. 25); sexual exploitation by peacekeepers (A/71/303 (2016), paras. 43-44); forced recruitment or abduction into military service or by armed forces (A/71/303 (2016), paras. 31-32) or by terrorist groups for purposes of forced marriage, forced pregnancy, sexual slavery, domestic servitude, to serve as combatants including as suicide bombers, for sale or for ransom, and for purposes of being gifted to fighters as a reward to increase the recruitment and retention (A/71/303 (2016), para. 33; A/72/164 (2017), paras. 19, 21, 26; CEDAW/C/NER/CO/3-4).

¹⁸ General recommendation No. 19 (1992) (HRI/GEN/1/Rev.9 (Vol. II)), para. 14.

¹⁹ This includes women who are: migrants (CEDAW/C/ITA/CO/7; CEDAW/C/URY/CO/8-9); asylum-seekers (CEDAW/C/NOR/CO/9); refugees (CEDAW/C/RWA/CO/7-9); internally displaced (CEDAW/C/NGA/CO/7-8); non-nationals (CEDAW/C/BRB/CO/5-8); stateless; forcibly returned to their country of origin (CEDAW/C/GTM/CO/8-9); in conflict or post-conflict situations (CEDAW/C/BGD/CO/8; CEDAW/C/MMR/CO/4-5); living in post disaster situations; living in poverty; rural women (CEDAW/C/BTN/CO/8-9); with disabilities (CEDAW/C/MNE/CO/2; CEDAW/C/ROU/CO/7-8; from religious, ethnic, and sexual minorities (CEDAW/C/GTM/CO/8-9; CEDAW/C/CRI/CO/7; CEDAW/C/HND/CO/7-8; CEDAW/C/CZE/CO/6); and, adolescents, particularly girls without care or in alternative care settings (General Recommendations: No. 28 (2010) (CEDAW/C/GC/28), para. 21; No. 34 (2016) (CEDAW/C/GC/34), para. 5; No. 37 (2018) (CEDAW/C/GC/37), para. 75; A/73/263 (2018), para. 21; CEDAW/C/CAN/CO/8-9).

²⁰ UNODC, *Global Report on Trafficking in Persons 2018*, p. 9.

²¹ UNODC, *Global Report on Trafficking in Persons 2018*, p. 9.

²² General Recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 1. Gender-based violence against women is defined as: “violence which is directed against a woman because she is a woman or that affects women disproportionately”, and that it constituted a violation of their human rights

²³ General Recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 2.

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unequivocally a phenomenon rooted in gender-based discrimination and inequality and constitutes gender-based violence against women.²⁴

15. Trafficking in women and girls may amount to torture or cruel, inhuman or degrading treatment.²⁵ The direct obligation of non-State actors to respect the prohibition of torture, as a peremptory norm (*jus cogens*), is set out in both international humanitarian law and human rights law.²⁶ 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 Rome Statute of the International Criminal Court, pursuant to which enslavement in the course of trafficking in women and girls may constitute a war crime, a crime against humanity or an act of torture constitute an act of genocide.²⁷

c. Scope of application of the Convention

16. States parties' obligation of due diligence to suppress all forms of trafficking in women and girls extends to the acts or omissions of all perpetrators, including private persons, intimate or extended family members and intimate partners, as well as organizations or enterprises.²⁸ This includes the regulation of the activities of national corporations operating extraterritorially as affirmed in general recommendations No. 28 (2010) and No. 37 (2018)²⁹ and reinforced in the United Nations Guiding Principles on Business and Human Rights.³⁰

17. States parties are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territory.³¹ This includes obligations towards States parties' nationals who are trafficked abroad. The obligations of States parties under the Convention apply without discrimination both to citizens and non-citizens, including refugees,

²⁴ General Recommendations: No. 19 (1992) (HRI/GEN/1/Rev.9 (Vol. II)), para. 14; No. 28 (2010) (CEDAW/C/GC/28), para. 21; No. 30 (2013) (CEDAW/C/GC/30), para. 39; No. 32 (2014) (CEDAW/C/GC/32), paras. 14, 15, 55; No. 35 (2017) (CEDAW/C/GC/35), para. 12; No. 37 (2018) (CEDAW/C/GC/37), para. 75.

²⁵ General recommendation No. 35 (2017) (CEDAW/C/GC/35), paras. 16-17. The Committee has set out that a gender-sensitive approach is required to determine when an act of gender-based violence against women amounts to torture or cruel, inhuman or degrading treatment. This requires an understanding of the level of pain and suffering experienced by women. The purpose and intent requirements for classifying such acts as torture are satisfied when acts or omissions are gender-specific or perpetrated against a person on the basis of sex.

²⁶ General recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 25.

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. Also see Article 9(1) of the Trafficking Protocol: "1. States Parties shall establish comprehensive policies, programmes and other measures: (a) To prevent and combat trafficking in persons; and (b) To protect victims of trafficking in persons, especially women and children, from revictimization."

²⁸ General recommendations: No. 28 (2010) (CEDAW/C/GC/28), para. 13; No. 35 (2017) (CEDAW/C/GC/35), paras. 21, 24(b), No. 32 (2014) (CEDAW/C/GC/32), para. 27.

²⁹ General recommendations: No. 30 (2013) (CEDAW/C/GC/30), para. 10; No. 37 (2018) (CEDAW/C/GC/37), para. 48.

³⁰ General recommendation No. 37 (2018) (CEDAW/C/GC/37), para. 48. The United Nations Guiding Principles on Business and Human Rights stipulate that businesses have a direct responsibility to respect and protect human rights, to act with due diligence to prevent human rights violations and to provide effective remedies for human rights violations connected to their operations

³¹ General recommendations: No. 28 (2010) (CEDAW/C/GC/28), para. 12; No. 30 (2013) (CEDAW/C/GC/30), para. 8.

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asylum-seekers, migrant workers, migrants with irregular status and stateless persons, within their territory or effective control, even if not situated within the territory.³²

d. Obligation to identify women and girls subjected to multiple forms and compounded discrimination as rights bearers

18. The Committee has acknowledged that identical or neutral treatment of women and men might constitute discrimination against women if such treatment resulted in or had the effect of women being denied exercise of a right because there was no recognition of the pre-existing gender-based disadvantage and inequality that women face.³³ Discrimination on the basis of sex or gender may affect women belonging to groups in situations of vulnerability in different ways.³⁴ Women are not a homogenous group and their experiences as trafficking victims are diverse.³⁵ States parties are required to proactively identify as rights-bearers women and girls within the jurisdiction of the State party who are marginalized, being subjected to multiple forms of discrimination, including non-citizen, migrant, refugee, asylum-seeking and stateless women and girls, and women and girls with an irregular migration status.³⁶

e. Root causes of trafficking in women and girls and discouraging the demand that fosters their exploitation through trafficking

19. Identifying, addressing and eliminating the root causes and discouraging the demand that fosters all forms of exploitation of women and girls through trafficking are key to States parties' prevention efforts.³⁷ A gender-transformative approach is required to dismantle the structural and systemic conditions that deprive women and girls of their fundamental rights, the consequence of which places them in situations of vulnerability to exploitation by traffickers. Women's right to a life free from gender-based violence is indivisible from and interdependent on other human rights.³⁸ An effective anti-trafficking response must engage all substantive provisions of the Convention.³⁹

20. Trafficking in women is rooted in gender-based discrimination, gender-based structural inequality and the feminisation of poverty compounded by growing global inequalities and the demand for cheap and/or forced labour, including the demand for sexual exploitation.⁴⁰ Women and girls continue to be the prime targets of traffickers, especially for the purpose of sexual exploitation, due to pervasive and persistent gender inequality resulting in an economic, social, and legal status that is lower in comparison than that which is enjoyed by men and boys.⁴¹

³² General recommendations: No. 28 (2010) (CEDAW/C/GC/28), para. 12; No. 30 (2013) (CEDAW/C/GC/30), para. 5; No. 32 (2014) (CEDAW/C/GC/32), para. 7.

³³ General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 5.

³⁴ General recommendation No. 33 (2015) (CEDAW/C/GC/33), para. 8.

³⁵ General recommendations: No. 30 (2013) (CEDAW/C/GC/30), para. 6; No. 34 (2016) (CEDAW/C/GC/34), para. 14.

³⁶ General recommendations: No. 28 (2010) (CEDAW/C/GC/28), paras. 24 and 26; No. 30 (2013) (CEDAW/C/GC/30), para. 7; No. 32 (2014) (CEDAW/C/GC/32), para. 18; No. 34 (2016) (CEDAW/C/GC/34), para. 20.

³⁷ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 29; para. 28(a), CEDAW/C/NGA/CO/7-8; para. 19(f), CEDAW/C/ARM/CO/5-6; para. 26(c), CEDAW/C/BRB/CO/5-8; Trafficking Protocol, Article 9(5): "5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking."

³⁸ General recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 15.

³⁹ General recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 21.

⁴⁰ Para. 25(a), CEDAW/C/GAB/CO/6.

⁴¹ Report of the Secretary-General, *Trafficking in women and girls*, A/73/263 (2018), para. 19.

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21. In addition to differential treatment in the law, women and girls may be adversely impacted by economic and public policies that result in a lack of sustainable livelihood options and basic living standards. Social structures may limit women's autonomy and access to key resources, including economic, land, political, educational, information and knowledge. Inequalities are manifested in women's and girls' lower access to education and vocational training opportunities, asset and land ownership, access to credit, women's low participation in decision-making⁴², unequal pay, child/early and forced marriage, pervasiveness of patriarchal gender roles, the concentration of women in insecure and vulnerable work and their lack of decent work opportunities.⁴³ These effects are compounded by gender-based violence against women and girls, including domestic violence, and marginalization.

22. Women at risk of being trafficked are more likely to be impoverished, uneducated, unemployed and/ or disempowered by political, economic, societal and family structures⁴⁴, including being subjected to unequal treatment, carrying the burden of household and childcare responsibilities and are often subject to domestic violence. Facing such circumstances, some women and girls, who often lack access to sustainable livelihoods and/or have no access to information on trafficking and how traffickers operate, are susceptible to being lured by promises of a means of escape from impoverished circumstances. Additional push factors include persisting norms and stereotypes regarding male domination, the need to assert male control or power and enforce gender roles⁴⁵, male sexual entitlement, coercion and control which drive the demand for the gender-stereotyped exploitation of trafficking victims, as well as the lure of massive financial gains with few risks due to the impunity enjoyed by perpetrators.

23. The patriarchal norms and values, sometimes formalised in legislation, including family laws, facilitate trafficking for child/early and forced marriage. Families may agree to the indefinite or temporary "marriage" of their daughter in exchange for financial gains. So-called "women shortages" due to family planning policies in some countries has exacerbated this situation.

24. Women and girls living in rural and remote areas, indigenous women and girls, those with an irregular migration status, as well as stateless women and girls and those at risk of statelessness⁴⁶ who experience social, political and economic exclusion face specific risks of being trafficked. In its general recommendation no. 34 (2016) on rural women, the Committee highlighted that the economic hardships of rural life including the negative effects of climate change, high levels of poverty, restricted access to State benefits, protection and services, resulting in, *inter alia*, low levels of education, and low awareness on how traffickers operate, render rural women especially vulnerable to exploitation, in particular in prostitution and as domestic workers and in conflict-affected regions.⁴⁷ Stateless and undocumented women are obliged to use irregular channels of migration without access to diplomatic protection. Their situation of vulnerability is exacerbated by fear of detention pending determination of proof of identity and possible expulsion. Victims of trafficking, and their children, who have been deprived of their identity documents face similar risks.

25. Review statistical methodologies and conceptual frameworks related to data collection to include indicators that reflect States' systemic responses to trafficking, including by:

⁴² Pp. 4, CEDAW Contributions to the 2030 Agenda for Sustainable Development (2017 HLPF).

⁴³ para. 27(a), CEDAW/C/KEN/CO/8; para. 25(a), CEDAW/C/THA/CO/6-7; para. 27(a), CEDAW/C/RWA/CO/7-9.

⁴⁴ Para. 30(i), CEDAW/C/ITA/CO/7.

⁴⁵ General recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 19.

⁴⁶ A/73/263 (2018), para. 29.

⁴⁷ General recommendation No. 34 (2016) (CEDAW/C/GC/34), para. 26; CEDAW Contributions to the 2030 Agenda for Sustainable Development (2017 HLPF).

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- a) **Enhancing the collection, analysis and dissemination of comprehensive data and using measurable indicators to assess trends on the situation of women and girls and progress achieved towards the realization by women of substantive equality in all areas covered by the Convention, in particular combatting trafficking.⁴⁸**
- b) **Disaggregating data collected on victims of trafficking by sex, age, disability, ethnicity, nationality, immigration status, location, socioeconomic status⁴⁹ and all forms of exploitation, under indicator 16.2.2.2 of the Sustainable Development Goals.**
- c) **Collecting and publishing data on trafficking in women and girls, and specifically on:**
 - i. **The prevalence of both internal and cross-border trafficking.⁵⁰**
 - ii. **Its scope, extent, forms of exploitation, causes, and consequences for women and girls;⁵¹**
 - iii. **Its potential link with bonded labour, domestic servitude and child and forced marriage;⁵²**
 - iv. **The internal trafficking risk factors for women and girls migrating within the State party;⁵³**
 - v. **Trafficking in the context of international migration, including the countries of origin, transit and destination of victims;⁵⁴**
 - vi. **The number of investigations, prosecutions, convictions and the sentences imposed on perpetrators and the access to justice and compensation awarded to victims;⁵⁵**
 - vii. **The number of trafficked women and girls arrested, detained, or prosecuted for status-related offenses including illegal entry or departure, illegal stay, illegal work⁵⁶ or crimes committed as a result of being trafficked;**
 - viii. **The number of exit or entry visas or permits issued or denied to trafficked women and girls;**
 - ix. **The number of trafficked women and girls who sought and were granted asylum;**
 - x. **The number of trafficking victims granted or denied needs-based protection and assistance and their level of satisfaction where assistance was provided.**
- d) **Establishing partnerships with international organizations and civil society stakeholders to systematically collect this information;⁵⁷**
- e) **Improving exchange of data among anti-trafficking stakeholders to ensure prompt and needs-based assistance to victims with due respect to data protection and confidentiality;⁵⁸**
- f) **Analyzing the data with the objective to inform the development of:**
 - i. **A strategic response to address the economic and social context creating the demand for the labour and/or services of trafficked persons;**

⁴⁸ para. 66, CEDAW/C/SAU/CO/3-4; para. 40, CEDAW/C/MUS/CO/8.

⁴⁹ para. 66, CEDAW/C/SAU/CO/3-4; para. 29(a), CEDAW/C/CHE/CO/4-5; 33(c), CEDAW/C/CAN/CO/8-9; para. 20(c), CEDAW/C/MUS/CO/8; para. 27(a), CEDAW/C/NOR/CO/9; para. 29(c), CEDAW/C/PSE/CO/1; para. 25(c), CEDAW/C/BRN/CO/1-2.

⁵⁰ Para. 23(a), CEDAW/C/ARG/CO/7; para. R, CEDAW/C/MMR/CO/3.

⁵¹ para. 28(b), CEDAW/C/BWA/CO/4; para. 29(a), CEDAW/C/FSM/CO/1-3; para. 21(b), CEDAW/C/MEX/CO/7-8.

⁵² para. 27(a), CEDAW/C/AFG/CO/1-2; para. 24(a), CEDAW/C/PAK/CO/4.

⁵³ para. 25(d), CEDAW/C/MDV/CO/4-5.

⁵⁴ para. 19(d), CEDAW/C/ARM/CO/5-6.

⁵⁵ para. 25(f), CEDAW/C/NER/CO/3-4; para. 27(e), CEDAW/C/LKA/CO/8

⁵⁶ para. 33(d), CEDAW/C/KWT/CO/3-4.

⁵⁷ 29(c), CEDAW/C/MRT/CO/2-3; 40, CEDAW/C/MUS/CO/8.

⁵⁸ para. 29(a), CEDAW/C/CHE/CO/4-5; 33(c), CEDAW/C/CAN/CO/8-9.

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- ii. **Enacting, modifying and implementing anti-trafficking strategies to combat the internal and cross-border trafficking in women and girls and to address the root causes.⁵⁹ Include in the design those affected by anti-trafficking policies, including trafficking victims and women and girls vulnerable to trafficking;**
 - iii. **Legislation aimed at preventing and combating human trafficking and enhancing the protection of victims and the criminal justice response to persistent and emerging human trafficking challenges and trends, including the misuse of technology to commit the crime ;⁶⁰**
 - iv. **Improved measures to identify, assist and protect victims.⁶¹**
26. **Address the root causes of trafficking by:**
- a) **Identifying and ensuring the equal rights and opportunities for women facing multiple forms of discrimination;⁶²**
 - b) **Providing women and girls in situations of disadvantage with access to basic services, including education, information, health care and employment opportunities;^{63,64}**
 - c) **Enhancing women's access to political decision-making, credit, land, and the modern tools and inputs required for its efficient cultivation;⁶⁵**
 - d) **Stepping up nationwide public awareness-raising campaigns, particularly in rural communities, on the risk of human trafficking, the methods employed by traffickers and measures to reduce these risks;⁶⁶**
 - e) **Combating the practice of child and forced marriage through strengthened prevention efforts addressing its root causes, sensitization campaigns and appropriate punishment of such acts;⁶⁷**
 - f) **Identifying and addressing any potentially disadvantageous impact of nationality and immigration laws on women and girls who migrate or are trafficked abroad, and their children.**
27. **Discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to human trafficking by:⁶⁸**
- a) **Adopting or strengthening legislative and other measures to implement prevention techniques through educational, social or cultural measures, including in particular those targeted toward potential users of trafficked goods or services;**
 - b) **Where applicable, instituting penal legislation to sanction the users of goods and services that result from trafficking in persons;**
 - c) **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;**

⁵⁹ para.25(a), CEDAW/C/GAB/CO/6.

⁶⁰ para. 25(a), CEDAW/C/GAB/CO/6.

⁶¹ para. 21(c), CEDAW/C/MEX/CO/7-8.

⁶² para. 44, CEDAW/C/BRB/CO/5-8.

⁶³ para. 45(e), CEDAW/C/MMR/CO/4-5; para. 28(e), CEDAW/C/BWA/CO/4; para. 37(f), CEDAW/C/CHE/CO/4-5.

⁶⁴ para. 27(c), CEDAW/C/BFA/CO/7; para. 25(e), CEDAW/C/NER/CO/3-4; para. 31(a), CEDAW/C/UKR/CO/8; para. 33(g), CEDAW/C/CAN/CO/8-9.

⁶⁵ para. 25(c), CEDAW/C/ETH/CO/6-7.

⁶⁶ General recommendation No. 31 (2014) (CEDAW/C/GC/31-CRC/C/GC/18), para. 74; para. 27(b), CEDAW/C/KEN/CO/8; para. 27(b), CEDAW/C/RWA/CO/7-9; para. 21(b), CEDAW/C/BOL/CO/5-6; 30(a), CEDAW/C/IDN/CO/6-7.

⁶⁷ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 65(a); para. 22(c), CEDAW/C/NZL/CO/7.

⁶⁸ Article 9(5), UN Trafficking Protocol; A/73/263 (2018), para. 18.

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- d) **Investigating, prosecuting and convicting all perpetrators involved in the trafficking of persons, including those on the demand side.**

28. Women’s rights framework to human development: Take responsibility, in view of the Sustainable Development Goals, to address the root causes of trafficking, in particular: the acceptance and normalization of gender-based violence against women (Goals 5, 11 and 16); the vulnerability of women to poverty (Goal 1); the concentration of women in insecure and vulnerable work and their lack of decent work opportunities (Goal 8) and the limited access for women and girls to education, (Goal 4); inequalities within and between countries (Goal 10); and insecurity as a result of conflict (Goal 16) or as a result of climate change-induced disasters and natural hazards.

29. Adopt and implement comprehensive gender-sensitive anti-trafficking legislation⁶⁹ ensuring that it:

- a) **Fully complies with international human rights standards, including the Convention;⁷⁰**
- b) **Fully complies with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime⁷¹, including the definition of “trafficking in persons”;**
- c) **Has as its objective to combat trafficking for purposes of, among others, child and forced marriage, debt bondage, serfdom, forced or compulsory labour, slavery and sexual exploitation;⁷²**
- d) **Explicitly addresses contemporary methods of trafficking, including those which make use of information and communications technologies;⁷³**
- e) **Includes specific provisions addressing the prevention of trafficking in women and girls and the economic and physical and psychological rehabilitation of victims;⁷⁴**
- f) **Addresses any legal, policy and implementation gaps that impede the investigation, prosecution and conviction of traffickers under national criminal law;⁷⁵**
- g) **Establishes, on an equal basis for women migrants, including irregular migrants, facilitated access to justice mechanisms to resolve complaints of exploitation and abuse;**
- h) **Sets a clear time frame for establishing specialized tribunals to effectively prosecute and adequately punish traffickers⁷⁶, with an emphasis on proactive and victimless investigations and prosecutions of human trafficking crimes;**
- i) **Provides a harmonized approach to criminalizing trafficking at all levels of jurisdiction;⁷⁷**
- j) **Provides judges, prosecutors, criminal, financial and border police, asylum and immigration authorities and other law enforcement officials with mandatory training in its gender-sensitive application;⁷⁸**
- k) **Undergoes evaluation within a set timeframe to assess its impact.⁷⁹**

⁶⁹ para. 30(a), CEDAW/C/ITA/CO/7; para. 29(a), CEDAW/C/PSE/CO/1.

⁷⁰ para. 21(b), CEDAW/C/CRI/CO/7.

⁷¹ para. 23(a), CEDAW/C/SGP/CO/5.

⁷² para. 26(a), CEDAW/C/MLI/CO/6-7; para. 27, CEDAW/C/RWA/CO/7-9.

⁷³ para. 28(b), CEDAW/C/PHL/CO/7-8.

⁷⁴ para. 23(a), CEDAW/C/IND/CO/4-5.

⁷⁵ para. 27(d), CEDAW/C/LKA/CO/8.

⁷⁶ para. 21(a), CEDAW/C/BGD/CO/8.

⁷⁷ para. 23(b), CEDAW/C/ARG/CO/7.

⁷⁸ para. 36(a), CEDAW/C/SAU/CO/3-4.

⁷⁹ para. 27(h), CEDAW/C/FRA/CO/7-8.

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30. National coordination is required to align policies in order to ensure an effective and human rights-based approach to combatting trafficking in women and girls including those on gender equality, criminal justice, migration management and sustainable development.⁸⁰ It is recommended that State parties:

- a) **Establish an inter-agency coordinating mechanism to:**
 - i. **Integrate gender-specific provisions into the national plan of action to combat human trafficking, with the meaningful participation of civil society;**
 - ii. **Coordinate the initiatives and activities of actors at the local, regional and national levels, including government agencies, national human rights institutions, and civil society organizations, engaged in combatting trafficking in women and girls;**
- b) **Establish an independent National Rapporteur on Human Trafficking to track and report on the progress of anti-trafficking strategies⁸¹, including the national plan of action.**

31. Adopt, adequately finance, implement, and regularly review a comprehensive national plan of action to prevent and combat human trafficking, ensuring it is in line with this general recommendation and that it:

- a) **Takes into account the UN Trafficking Protocol and the Recommended Principles on Human Rights and Human Trafficking of the United Nations Office of the High Commissioner for Human Rights (E/2002/68/Add.1);⁸²**
- b) **Is designed with a result-oriented approach, including specific indicators and targets, in line with the Convention;⁸³**
- c) **Is harmonized with the national action plans on gender equality, on combating violence against women, and on women, peace and security;**
- d) **Includes the formulation of a right-based policy on rescue, repatriation and reintegration of victims;**
- e) **Calls for the establishment of permanent bodies to coordinate and monitor its uniform implementation across the country;⁸⁴**
- f) **Facilitates inter-agency coordination among government entities and their cooperation with civil society;⁸⁵**
- g) **Is allocated with adequate human, technical and financial resources for its effective implementation that is ensured through both national budgets, international cooperation and with the private sector;⁸⁶**
- h) **Is regularly assessed within a set timeframe to determine its impact on the rights of women and girls.⁸⁷**

32. Ensure women's meaningful participation in trafficking prevention efforts:

- a) **The expertise and voices of women and girl victims of trafficking must be included and accounted for at all stages of efforts to prevent and combat trafficking, including training, programme and research design, development,**

⁸⁰ General recommendation No. 37 (2018) (CEDAW/C/GC/37), para. 41.

⁸¹ General recommendation No. 31 (2014) (CEDAW/C/GC/31-CRC/C/GC/18), para. 35.

⁸² para. 27(d), CEDAW/C/LKA/CO/7; para. 19(a), CEDAW/C/ARM/CO/5-6.

⁸³ para. 24(b), CEDAW/C/PAK/CO/4.

⁸⁴ para. 26(a), CEDAW/C/MLI/CO/6-7; para. 27, CEDAW/C/RWA/CO/7-9; para. 20(b), CEDAW/C/MUS/CO/8; para. 28(c), CEDAW/C/BWA/CO/4; para. 21(c), CEDAW/C/BGD/CO/8; para. 21(g), CEDAW/C/FRA/CO/7-8; para. 20(a), CEDAW/C/MUS/CO/8; para. 27(a), CEDAW/C/LKA/CO/8; para. 28(d), CEDAW/C/NGA/CO/7-8; para. 31(a), CEDAW/C/UKR/CO/8; para. 21(a), CEDAW/C/CRI/CO/7.

⁸⁵ para. 36(c), CEDAW/C/SAU/CO/3-4; para. 25(a), CEDAW/C/HND/CO/7-8.

⁸⁶ General recommendation No. 37 (2018) (CEDAW/C/GC/37), para. 45.

⁸⁷ para. 29(b), CEDAW/C/CHE/CO/4-5.

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implementation, monitoring and evaluation, as well as legislative and policy drafting;⁸⁸

- b) **Allocate resources to ensure that human rights and women’s rights non-governmental organizations are well informed, adequately consulted and play an active role in the initial and subsequent development of anti-trafficking strategies⁸⁹ and continuing implementation of the Convention⁹⁰ and the UN Trafficking Protocol.**

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

33. Armed conflict is one of the most important drivers of global displacement, and trafficking in women and girls for the purposes of sexual or other forms of exploitation and violence is both a human rights violation and a threat to international peace and security. In its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee recognized that gender-based violence against women is affected and often exacerbated in the contexts of displacement, migration, the increased globalization of economic activities, including global supply chains, the extractive and offshore industry, militarization, foreign occupation, armed conflict, violent extremism and terrorism.⁹¹

34. Trafficking in women and girls is exacerbated prior to, during and after conflict due to instability and insufficient governance, including the absence of the rule of law, increased militarism, the availability of small arms, the breakdown of social and family structures and the “normalization” of gender-based violence as an additional element of pre-existing discrimination against women and girls.⁹² The war-related demand for women’s sexual, economic and military exploitation is a growing trend in situations of conflict.⁹³

35. The obligations of States parties do not cease in periods of armed conflict or in states of emergency resulting from political events, health crises or natural disasters.⁹⁴ The Committee has previously noted that displacement has specific gender dimensions⁹⁵ and the Convention applies at every stage of the displacement cycle, during flight, settlement and return.⁹⁶ Forcibly displaced women are often subjected to gross human rights violations, including risks relating to trafficking for purposes of sexual or labour exploitation, slavery and servitude, including the abduction or recruitment of women and girls into armed forces and groups.⁹⁷

36. Inequalities in marriage and family relations affect women’s experiences in conflict and post-conflict situations. In such situations, women and girls may be forced into marriage by their families to placate armed groups or as a result of poverty and a misconception that marriage may protect them against forms of sexual and gender based violence, including rape.⁹⁸

37. Conflict-affected regions can be areas of origin, transit and destination with regard to trafficking in women and girls; its forms varying by region, specific economic and political

⁸⁸ General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 27.

⁸⁹ General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 27.

⁹⁰ para. 18, CEDAW/C/NLD/CO/6

⁹¹ General recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 14.

⁹² General recommendation No. 30 (2013) (CEDAW/C/GC/30), paras. 34 and 39.

⁹³ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 39.

⁹⁴ General recommendation No. 28 (2010) (CEDAW/C/GC/28), para. 11.

⁹⁵ Pp. 6, CEDAW contribution to the 2030 Agenda for Sustainable Development (2017 HLPF)

⁹⁶ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 53.

⁹⁷ General recommendation No. 30 (2013) (CEDAW/C/GC/30), paras. 30 and 54.

⁹⁸ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 62.

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contexts and profile of victims; and its perpetrators including government armed forces, paramilitary groups, non-State armed groups, peacekeeping personnel and civilians.⁹⁹

38. Trafficking may also occur when third-party countries seek to restrict large movements of refugees and migrants out of conflict-affected areas through measures such as increased border control, refusal of entry, pushbacks, expulsion or detention. Restrictive, sex-specific or discriminatory migration policies that limit opportunities for women and girls fleeing from conflict zones may heighten their vulnerability to all forms of exploitation, particularly at points of transit, not least due to an increased need to use the services of migrant smugglers in order to evade border controls.¹⁰⁰

39. The Committee has recognized 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.¹⁰¹ Trafficking in women and girls breaches specific provisions of the Convention and is therefore recognized as a legitimate ground for international protection in law and in practice.¹⁰²

40. The Committee observes women's increased risk of trafficking in humanitarian crises, including forced displacement attributed to global warming, climate-change induced and natural disasters, resulting in heightened stress, lawlessness and homelessness.¹⁰³ It notes with concern that individuals may increasingly cross borders to seek protection from climate change-related harm that may be related to both sudden-onset events and slow-onset processes¹⁰⁴ and draws attention to the vulnerability of women asylum seekers in such situations.

41. In line with the Committee's general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations:¹⁰⁵ (a) ensure the inclusion and participation of women, and particularly victims of trafficking¹⁰⁶, at all stages of the peacemaking, stabilization and reconstruction process, in line with Security Council resolution 1325 (2000);¹⁰⁷ and, (b) generate a gendered analysis of conflict upon which States parties can design effective responses, including those to prevent trafficking in women and girls.¹⁰⁸

42. Address the root causes of women's and girls' vulnerability to trafficking, in the context of forced displacement¹⁰⁹, with specific attention given to asylum seekers, refugees, internally displaced and stateless women:

⁹⁹ General recommendation No. 30 (2013) (CEDAW/C/GC/30), paras. 34 and 39; Pp. 5, CEDAW contribution to the 2030 Agenda for Sustainable Development (2017 HLPF).

¹⁰⁰ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 40; pp. 2, Addressing gender dimensions in large-scale movements of refugees and migrants Joint Statement by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), the Committee on the Elimination of Discrimination against Women (CEDAW), the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) 19 September 2016.

¹⁰¹ General recommendation No. 32 (2014) (CEDAW/C/GC/32), para. 15.

¹⁰² General recommendation No. 32 (2014) (CEDAW/C/GC/32), para. 15.

¹⁰³ General recommendation No. 37 (2018) (CEDAW/C/GC/37), paras. 5 and 56.

¹⁰⁴ See: Views adopted by the United Nations Human Rights Committee under article 5(4) of the Optional Protocol, concerning communication No. 2728/2016 (7 January 2020) (CCPR/C/127/D/2728/2016).

¹⁰⁵ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 28(a).

¹⁰⁶ para. 45(g), CEDAW/C/MMR/CO/4-5

¹⁰⁷ para. 11(d), CEDAW/C/NER/CO/3-4

¹⁰⁸ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 30.

¹⁰⁹ para. 28(c), CEDAW/C/PHL/CO/7-8.

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- a) Systematically collect comprehensive and disaggregated data on the extent and forms of exploitation for which displaced women are trafficked;¹¹⁰
- b) With the participation and leadership of displaced women, develop policies and programmes to address existing and new risk factors which increase the vulnerability of displaced women to being trafficked;¹¹¹
- c) Identify potential trafficking “hotspots” along routes linked to forced displacement and monitor them consistently in order to put prevention and response measures in place;
- d) Integrate anti-trafficking measures into conflict and disaster readiness and response plans, including as a result of global warming, climate-change induced and natural disasters;
- e) Adopt a comprehensive gender-sensitive and rights-based migration and refugee policy that takes into consideration the vulnerability of displaced women to trafficking;¹¹²
- f) Raise awareness among displaced women and girls about all forms of trafficking;¹¹³
- g) Address issues of vulnerability that are faced by families and particularly women and girls, including economic insecurity, misconceptions about family pride and girls’ safety, access to education and livelihoods;
- h) Train law enforcement agents, including police and border control officers, on the risks faced by displaced women to trafficking;¹¹⁴
- i) Adopt a policy and legislative framework to provide comprehensive protection and assistance to displaced women at risk of trafficking;¹¹⁵
- j) Prevent trafficking in all accommodation facilities for displaced persons, including by improving women’s security situation both within and around facilities, through means such as patrolling of police officers, including female officers, ensuring adequate lighting and access to sanitary facilities, and establishing resource centres for women in their vicinity.¹¹⁶

43. Provide forcibly displaced women with appropriate and sufficient reception facilities and services by reflecting gender sensitivity in arrangements for arrivals at land, air and sea borders, including the provision of safe accommodation and adequate treatment taking into consideration the specific needs of victims of trafficking.¹¹⁷

44. Ensure all women are treated with dignity and that their rights are respected, protected and fulfilled under the Convention at each stage of the displacement cycle,

¹¹⁰ para. 15(a), CEDAW/C/BFA/CO/7; para. 11(b), CEDAW/C/NER/CO/3-4; para. 12(c), CEDAW/C/LBN/CO/4-5; para. 26(f), CEDAW/C/PHL/CO/7-8.

¹¹¹ General recommendation No. 37 (2018) (CEDAW/C/GC/37), para. 57.

¹¹² General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 41(c).

¹¹³ para. R(c), CEDAW/C/LIE/CO/4.

¹¹⁴ para. R(c), CEDAW/C/LIE/CO/4.

¹¹⁵ para. 45(c), CEDAW/C/HND/CO/7-8; para. 9(c), CEDAW/C/ERI/CO/5; para. 38, CEDAW/C/SVN/CO/5-6.

¹¹⁶ para. 49(a), CEDAW/C/RWA/CO/7-9; para. 49(c), CEDAW/C/RWA/CO/7-9; para. 40, CEDAW/C/URY/CO/8-9.

¹¹⁷ General recommendation No. 32 (2014) (CEDAW/C/GC/32), para. 34; para. 37(b), CEDAW/C/ESP/CO/7-8; para. 39(a), CEDAW/C/ARM/CO/5-6; para. 37(c), CEDAW/C/ESP/CO/7-8. See also: OSCE/ Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows. A Focus on First Identification and Reception Facilities for Refugees and Migrants in the OSCE Region* (Vienna 2017).

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and their enjoyment of durable solutions, including integration and/or resettlement in receiving States or voluntary repatriation to their country of origin.¹¹⁸

- 45. Ensure access to asylum procedures:**
- a) Establish mechanisms for the identification of victims of trafficking within the asylum procedure as well as referral mechanisms to ensure that asylum claims are assessed in an age and gender-sensitive procedure in order to respond to the specific protection needs of trafficked women and girls;¹¹⁹
 - b) Recognize trafficking in women as gender-related persecution, with the result that victims or potential victims are informed of and effectively enjoy the right of access to fair, efficient and clear asylum procedures without discrimination or any preconditions, regardless of country of origin or mode of entry into the State party;¹²⁰
 - c) Classify victims of trafficking under the “social group” ground in the refugee definition in line with the UNHCR “Guidelines on international protection: the application of article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked” [guideline No. 7 (HCR/GIP/06/07)¹²¹];
 - d) Provide resources to support asylum claimants during the application process;
 - e) Assess the impact of the national legal and policy framework, particularly in respect of the application of immigration and asylum laws on trafficking victims, in order to ensure that they do not have harmful consequences on victim identification, victim assistance and protection, and do not increase women and girls’ vulnerability to trafficking.
- 46. States parties are obligated to protect victims of trafficking in persons, especially women and children, from revictimization.¹²² This includes guaranteeing trafficking victims protection against *refoulement*:**
- a) Victims of trafficking and those at risk of trafficking must not be forcibly returned to their country of origin where they fear being re-trafficked or subjected to stigma, threats, intimidation, violence and retaliation;¹²³
 - b) Adopt an inclusive and non-selective approach in upholding the principle of *non-refoulement* and take a gender-sensitive approach to the continuing refugee inflows and asylum claims, including in procedural matters, in line with the provisions of the Convention and by ensuring access to the territory of the State party.¹²⁴

g. Women and girl migrants’ increased risk of being trafficked

47. The Committee recognizes that while migration presents new social and economic opportunities for women it may also place their human rights and security at risk¹²⁵, particularly if women and girls travel irregularly and/or have an irregular migration status. General

¹¹⁸ General recommendation No. 32 (2014) (CEDAW/C/GC/32), para. 14.

¹¹⁹ para. R(b), CEDAW/C/LIE/CO/4.

¹²⁰ para. 37(a), CEDAW/C/ESP/CO/7-8; General recommendation No. 32 (2014) (CEDAW/C/GC/32), para. 55; para. 12(a), CEDAW/C/LBN/CO/4-5.

¹²¹ General recommendation No. 32 (2014) (CEDAW/C/GC/32), fn 11.

¹²² Trafficking Protocol, Article 1. States Parties shall establish comprehensive policies, programmes and other measures: [...] (b) To protect victims of trafficking in persons, especially women and children, from revictimization.

¹²³ General recommendation No. 32 (2014) (CEDAW/C/GC/32), para. 55; para. R(b), CEDAW/C/LIE/CO/4.

¹²⁴ para. 12(a), CEDAW/C/LBN/CO/4-5; para. 39, CEDAW/C/CZE/CO/6; para. 38, CEDAW/C/SVN/CO/5-6.

¹²⁵ General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 2.

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recommendation No. 26 (2008) elaborates on the circumstances that contribute to the specific vulnerability of many women migrant workers and their experiences of sex- and gender-based discrimination as a cause and consequence of the violations of their human rights. The Committee recalls that migration is a permanent and positive aspect of modern society. Hence, while States are entitled to control their borders and regulate migration, they must do so in full compliance with their obligations as parties to the human rights treaties they have ratified or acceded to. That includes transparency and accountability in the ways States handle migration and provide safe, accountable labour conditions for all peoples, guaranteeing the human rights of women throughout the migration cycle.¹²⁶

48. Gender-based discrimination in States' migration policies limits women's access to safe and regular migration pathways and to regular and decent job opportunities in transit and destination countries.¹²⁷ Women's ability to migrate is restricted by gender-based stereotypes, discriminatory laws, including sex-specific migration bans or restrictions, discrimination in recruitment, lack of economic resources and limited access to social capital, financial, physical, sexual or psychological exploitation by recruiting agents, and limited access to education, training and reliable information on migration.¹²⁸

49. The lack of safe and legal routes to migration contravenes human rights principles and contributes to an increased risk of being trafficked.¹²⁹ Women migrants face a heightened risk of gender-based violence, including trafficking in persons in transit, in accommodation facilities, at borders and in destination countries.¹³⁰ Women are vulnerable to sexual and physical abuse by smugglers, state authorities, agents and escorts when travelling in countries of transit and may be subject to reprisals, including from exploitative recruiting agents, upon return.¹³¹

50. Sector-specific migration rules and policies perpetuate victimisation of women. A disproportionate number of migrant women are engaged in informal employment, particularly in the care and domestic sectors, the manufacturing and service sectors and in the male-centred entertainment sector.¹³² In addition to perpetuating traditional gender stereotypes about what constitutes "women's work", these gender-segregated labour markets offer no or few labour protections as they are either based on the unregulated informal economy or, where regulated, offer fewer protections than national standards.¹³³ Women migrants may be subjected to restricted mobility and have little access to relevant information about their rights and entitlements.¹³⁴ This heightens the exposure of migrant women to severe forms of human rights

¹²⁶ General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 3, CEDAW/C/2009/WP.1/R.

¹²⁷ A/73/263 (2018), para. 24; pp.1, Joint statement for International Migrants Day, 18 December, by the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, the Chair of the Committee on the Elimination of Discrimination against Women, and UN Women Friday, 15 December 2017.

¹²⁸ General recommendations: No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 10; No. 37 (2018) (CEDAW/C/GC/37), para. 76.

¹²⁹ pp.1, Joint statement for International Migrants Day, 18 December, by the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, the Chair of the Committee on the Elimination of Discrimination against Women, and UN Women Friday, 15 December 2017.

¹³⁰ General recommendation No. 37 (2018) (CEDAW/C/GC/37), para. 75.

¹³¹ General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), paras. 11-12.

¹³² General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 8.

¹³³ General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 14-15.

¹³⁴ General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 13.

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violations which often occur inside homes in the context of domestic work where victims are unseen and unprotected.¹³⁵

51. Migrant women often experience multiple and compounded forms of discrimination¹³⁶ including sex- and gender-based discrimination, xenophobia and racism.¹³⁷ The majority do not have access to adequate services on an equal basis with citizens.¹³⁸ Many have a precarious economic and/or legal status, which increases their vulnerability to all forms of violence, including trafficking.¹³⁹ Visa regimes may be responsible for creating an economic and legal dependency on an employer or on a husband, creating the conditions for exploitation and for sponsors to operate with impunity. Temporary or seasonal work in which migrant women are often engaged does not offer pathways to more regular, long-term or permanent employment and often does not offer unemployment protection, healthcare and access to other essential services.

52. Inhospitable State policies and practices, such as migration management based on a criminal justice response in which undocumented migrants live under a threat of being reported, detained, arrested and deported, serve to encourage trafficking of women, as migrants must rely on dangerous and exploitative relationships in order to survive.¹⁴⁰

53. Data and research:

- a) **Systematically collect and analyse disaggregated data on migrant women who have been trafficked to develop evidenced-based strategies in its prevention;**¹⁴¹
- b) **Conduct research on the drivers of women's migration, the discrimination they face in every phase of the migration cycle, and on the disproportionately high number of migrant women concentrated in specific occupational sectors, with a view to eliminating discrimination and providing a coherent and comprehensive approach to addressing their specific needs and vulnerabilities to being trafficked.**¹⁴² **This includes an examination of the laws, policies, programs and practices that enables exploitative conditions for women in migration.**

54. The anti-trafficking responses of States parties should be nuanced to address the particular vulnerabilities of both women who migrate within the borders of the territory for which they hold citizenship and those who migrate internationally and are non-citizens in the countries of transit and destination, both documented and undocumented.

¹³⁵ General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 20; pp.1, Joint statement for International Migrants Day, 18 December, by the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, the Chair of the Committee on the Elimination of Discrimination against Women, and UN Women Friday, 15 December 2017.

¹³⁶ General recommendation No. 37 (2018) (CEDAW/C/GC/37), para. 75.

¹³⁷ General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 14; pp. 2, Addressing gender dimensions in large-scale movements of refugees and migrants Joint Statement by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), the Committee on the Elimination of Discrimination against Women (CEDAW), the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) 19 September 2016.

¹³⁸ General recommendations: No. 31 (2014) (CEDAW/C/GC/31-CRC/C/GC/18), para. 86; No. 37 (2018) (CEDAW/C/GC/37), para. 75.

¹³⁹ General recommendations: No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 19; No. 31 (2014) (CEDAW/C/GC/31-CRC/C/GC/18), para. 86.

¹⁴⁰ General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 22.

¹⁴¹ para. 25(e), CEDAW/C/KHM/CO/4-5.

¹⁴² General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 5; para. R, CEDAW/C/LAO/CO/7; para. 24(d), CEDAW/C/ISL/CO/7-8; para. 34(b), CEDAW/C/NPL/CO/4-5; para. 43(c), CEDAW/C/GTM/CO/8-9; para. 32(b), CEDAW/C/TJK/CO/4-5; para. 39(a), CEDAW/C/CRI/CO/7.

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55. Increase access to safe and protected formal employment opportunities for women, both in their home countries and in the countries of destination as a viable economic alternative to migration, exploitation or unemployment.¹⁴³

56. Awareness-raising:

- a) **Disseminate information on safe migration, the nexus between human trafficking and labor migration, the rights of migrant women workers and of victims of trafficking under the Convention, the UN Trafficking Protocol, national laws and available remedies for violations of those rights;¹⁴⁴**
- b) **Counter stereotypical attitudes and discrimination towards women migrants by providing sensitivity training for individuals tasked with providing assistance and protection services to migrant women, including relevant labour authorities, public and private recruitment agencies and employers and relevant State employees, including the police, border officers, immigration, embassy and consular authorities, labour inspectors, social workers and health-care providers.¹⁴⁵**

57. Promote a gender responsive safe migration framework to protect, outgoing, returning and incoming women migrants, including irregular migrants, from all forms of violations of their human rights¹⁴⁶ including by:

- a) **Ensuring more systematic and regular migration pathways, taking into consideration the specific needs of women, and ensuring the rights of the migrant populations within these pathways;**
- b) **Eliminating any gender discriminatory restrictions on migration in law, policy or practice that limit opportunities for women's migration;**
- c) **Ensuring respect for women's autonomy in relevant policies including those regarding access to visas, residence permits, work permits and other documentation for migration;¹⁴⁷**
- d) **Facilitating attainment of official identification and travel documents to allow safe passage for women wishing to emigrate;¹⁴⁸**
- e) **Reviewing and monitoring the impact of laws, policies and programmes affecting migrant women¹⁴⁹, ensuring:**
 - a. **Respect for the principle of *non-refoulement*;¹⁵⁰**
 - b. **Decriminalization of irregular entry for trafficked women and girls;¹⁵¹**
 - c. **Provision of assistance to all women in need of protection.¹⁵²**
- k) **Legislating and implementing protections against exploitation and abuse by marriage brokers and traffickers.¹⁵³**

¹⁴³ para. 44(a), CEDAW/C/IDN/CO/6-7; para. 34(b), CEDAW/C/NPL/CO/4-5; para. 31(b), CEDAW/C/ARG/CO/7; para. 43, CEDAW/C/AUT/CO/7-8; para. 30(f), CEDAW/C/NOR/CO/8.

¹⁴⁴ para. 25(b), CEDAW/C/KHM/CO/4-5; para. R, CEDAW/C/LAO/CO/7; para. 31(d), CEDAW/C/ARM/CO/5-6; para. 37, CEDAW/C/CRI/CO/5-6; para. 21(e), CEDAW/C/CMR/CO/4-5; para. 26(e), CEDAW/C/BHR/CO/3; para. 31(c), CEDAW/C/SAU/CO/3-4; para. 38(a), CEDAW/C/LBN/CO/4-5.

¹⁴⁵ para. 22(b), CEDAW/C/QAT/CO/1.

¹⁴⁶ para. R, CEDAW/C/LAO/CO/7; para. 31, CEDAW/C/ROU/CO/7-8; para. 34(c), CEDAW/C/NPL/CO/4-5.

¹⁴⁷ para. 39, CEDAW/C/LKA/CO/8.

¹⁴⁸ para. 23(c), CEDAW/C/ERI/CO/5.

¹⁴⁹ para. 36(c), CEDAW/C/NOR/CO/8.

¹⁵⁰ para. 43(a), CEDAW/C/GTM/CO/8-9; para. 20(f), CEDAW/C/AGO/CO/6; para. 27(d), CEDAW/C/NOR/CO/9.

¹⁵¹ para. 43(a), CEDAW/C/GTM/CO/8-9

¹⁵² para. 43(a), CEDAW/C/GTM/CO/8-9

¹⁵³ para. 23(c), CEDAW/C/KOR/CO/7.

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- 58. Employment and labour framework**
- a) Introduce, strengthen, and enforce employment legislation designed to protect all migrant workers, irrespective of level of skill or the sector in which they work, duration of their employment, and to minimize the opportunities for exploitation by providing very clear protections, including minimum wage, overtime pay, health and safety, and decent working conditions, particularly in unregulated or unmonitored economic sectors that rely on migrant women's labour.
 - b) Pay particular attention to monitoring sectors in which workers are at a high risk of being trafficked, such as domestic and care work, garment, construction, agriculture, food processing and fishing;¹⁵⁴
 - c) Recognize in law the care sectors as legitimate areas of paid work by addressing gender segregated labour markets and human trafficking into the care economy;
 - d) Enforce adequate legal sanctions against employers engaging in abusive employment and labour practices;¹⁵⁵
 - e) Establish a mechanism for monitoring the implementation of these laws;¹⁵⁶
 - f) Facilitate the self-organisation and unionisation of women migrant workers in unregulated or unmonitored labour sectors.¹⁵⁷
- 59. Scrutinize recruitment agencies:**
- a) Regulate, license and monitor labour recruiters, intermediaries, and employment agencies, including by establishing an enforcement mechanism to ensure that the same contracts are used in the State party and in workers' countries of origin, and commit to moving to ethical recruitment measures such as the ILO's Fair Recruitment Initiative, and Know Before You Go information campaigns for prospective migrant workers, also involving the consular networks of countries of origin;¹⁵⁸
 - b) Prosecute and punish labour recruiters, intermediaries and employment agencies engaged in illegal recruitment processes, including for acts of violence, coercion, deception or exploitation, such as intentional provision of misleading information and documentation, the confiscation of passports and the charging of recruitment fees to workers.¹⁵⁹
- 60. Remove the dependency and vulnerability of migrant women workers in relation to their employers, by:**
- a) Ending discriminatory conditionalities in recruitment, including the practice of making the migration status of migrant workers conditional on the sponsorship or guardianship of a specific employer, such as the *kafala* system and other forms of "tied visas";¹⁶⁰

¹⁵⁴ para. 30(g), CEDAW/C/AND/CO/2-3; para. 44, CEDAW/C/JOR/CO/5; para. 24(e), CEDAW/C/MUS/CO/8; para. 40(a), CEDAW/C/ITA/CO/7; 35(a), para. CEDAW/C/SGP/CO/5.

¹⁵⁵ para. 31(a-b), CEDAW/C/SAU/CO/3-4; para. 38(b), CEDAW/C/LBN/CO/4-5.

¹⁵⁶ para. 37, CEDAW/C/CRI/CO/5-6. para.

¹⁵⁷ para. 38(e), CEDAW/C/LBN/CO/4-5.

¹⁵⁸ para. 31(c), CEDAW/C/SAU/CO/3-4; para. 38(a); CEDAW/C/LBN/CO/4-5; para. 20(c), CEDAW/C/CYP/CO/6-7; para. 37, CEDAW/C/CRI/CO/5-6; para. 25(b), CEDAW/C/KHM/CO/4-5; para. 23(b), CEDAW/C/KOR/CO/7; para. 44(e), CEDAW/C/IDN/CO/6-7; para. 38(b), CEDAW/C/PHL/CO/7-8.

¹⁵⁹ para. 44(d-e), CEDAW/C/IDN/CO/6-7; para. 38(b), CEDAW/C/PHL/CO/7-8; para. 34(h), CEDAW/C/NPL/CO/4-5; para. 31(e), CEDAW/C/SAU/CO/3-4; para. 44(a-f), CEDAW/C/ARE/CO/2-3.

¹⁶⁰ para. 41(b), CEDAW/C/KWT/CO/3-4; para. 26(d), CEDAW/C/QAT/CO/1; para. 38(c), CEDAW/C/LBN/CO/4-5.

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- b) **Providing the possibility for migrant workers to obtain residence and work permits independent of their employer in order to increase their autonomy and independence, and to prevent exploitation;**
 - c) **Discontinuing the use of employer-specific work permits, and enforcing the right for migrants to seek alternative employers and sectors of employment without seeking their existing employers' permission or leaving the country and going through the employment process all over again;¹⁶¹**
 - d) **Discontinuing the practice of security bond conditions on employers of migrant workers to ensure they 'control and supervise' their foreign employee;**
- 61. Review visa regimes:**
- a) **Conduct an impact assessment of the visa regimes currently in place to ensure they do not facilitate or result in trafficking of migrant women;¹⁶²**
 - b) **Monitor the establishments where women under particular visa programmes work to ensure that they are not exploited;¹⁶³**
 - c) **Facilitate access to permanent residency permits for women migrant workers who are in a situation of vulnerability or at risk of being trafficked;¹⁶⁴**
 - d) **Revise the conditions for granting temporary residence permits to migrant women to remove any dependency on their spouses;¹⁶⁵**
 - e) **Repeal requirements for women migrant workers to undergo mandatory testing for pregnancy and sexually transmitted diseases resulting in deportation on the grounds of pregnancy or diagnosis of HIV.¹⁶⁶**
- 62. Address trafficking in corporate supply chains¹⁶⁷:**
- a) **Establish laws governing mandatory due diligence in companies' supply chains, including supply chain transparency;**
 - b) **Ensure that businesses are not involved in, facilitate and/or benefit from trafficking within their supply chains, and effectively remedy violations and punish perpetrators;**
 - c) **Establish a code of conduct drafted, including zero tolerance policies to sexual exploitation, with the direct input of the workers whose interests it is designed to protect;**
 - d) **Ensure that a dedicated audit organization has the power to suspend suppliers who fail to bring their operations into compliance with the code;**
 - e) **Provide comprehensive worker-to-worker education;**
 - f) **Establish grievance mechanisms for workers at the company level that are gender-sensitive, transparent, clear and available to those who have a legitimate complaint and are in need of access to a remedy and can access without fear of retaliation;**
 - g) **Conduct, and/or fund, awareness campaigns to inform consumers and customers of products and services that may involve exploited labour, and where to report suspicions of criminal activities.**

¹⁶¹ para. 35(b), CEDAW/C/SGP/CO/5; para. 35(f), CEDAW/C/CAN/CO/8-9; para. 31(d), CEDAW/C/SAU/CO/3-4.

¹⁶² para. 20(d), CEDAW/C/CYP/CO/6-7.

¹⁶³ para. 23(b), CEDAW/C/KOR/CO/7.

¹⁶⁴ para. 35(f), CEDAW/C/CAN/CO/8-9.

¹⁶⁵ para. 27(f), CEDAW/C/SWE/CO/8-9; para. 21(f), CEDAW/C/FRA/CO/7-8; para. 25(c), CEDAW/C/AUT/CO/7-8.

¹⁶⁶ para. 35(c), CEDAW/C/SGP/CO/5.

¹⁶⁷ See also: OSCE/ Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Ending Exploitation. Ensuring that Businesses do not Contribute to Trafficking in Human Beings: Duties of States and the Private Sector, Occasional Paper Series no. 7 (Vienna, November 2014).

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63. Adequately resource and strengthen the capacity and mandate of labour inspectors to proactively and systematically recognize and report breaches of labour laws and presumed cases of trafficking in women and girls uncovered during inspections, including of migrant workers' workplaces and accommodation, agricultural farms, seasonal and informal workplaces, including private households.¹⁶⁸

64. Recognizing that migration is an inherently global phenomenon, the Committee recommends that, in designing measures to combat trafficking, international cooperation and development policies at the multilateral, bilateral and regional levels take into account the root causes of real migration patterns of low-income women who often undertake risky migration for work in exploitative informal employment.

65. States parties are encouraged to participate in regional processes and sign bilateral agreements with destination countries for employment to:¹⁶⁹

- a) Ensure coordination between States parties to address the nexus between human trafficking and international labor migration;**
- b) Strengthen cross-border cooperation to regulate working conditions in compliance with international labour standards which ensure the protection and promotion of the rights of women migrant workers;¹⁷⁰**
- c) Establish mechanisms in the country of destination to deal with the violation of the rights of women migrant workers during employment, in particular to report abuse and claim unpaid wages and benefits;¹⁷¹**
- d) Ensure that diplomatic missions and labor and economic attaches as well as consular officials are equipped with adequate human and financial resources, and training, to deal with cases of trafficking of migrant women workers.**

V. Victim identification, assistance and protection

a. Victim identification

66. A challenge in identifying female victims of trafficking is the lack of gender-sensitivity of relevant professionals, including front-line professionals, that is needed to adequately understand, identify and respond to incidences of trafficking in women and girls¹⁷², particularly as victims are often hidden in non-public areas such as private residences, isolated factories and farms, and brothels and private apartments used for commercial sexual exploitation. The victims, themselves, may lack awareness that they are subject to a criminal act, may not know where to report the crime or may be reluctant to engage with law enforcement and other state agents due to uncertainty about legal processes or for fear of being placed in detention and deported, particularly in the case of people with an irregular immigration status. Their experience of trauma may also impede their ability to seek help. Victims may choose not to disclose their traffickers for fear of retaliation against them, their children or other members of their families.

¹⁶⁸ para. 44, CEDAW/C/JOR/CO/5; para. 31(e), CEDAW/C/SAU/CO/3-4; para. 44(a-f), CEDAW/C/ARE/CO/2-3; para. 40(b), CEDAW/C/ITA/CO/7; para. 31, CEDAW/C/ROU/CO/7-8; para. 24(f), CEDAW/C/MUS/CO/8.

¹⁶⁹ para. 9, CEDAW/C/2009/WP.1/R; √37, CEDAW/C/CRI/CO/5-6; para. 38(a), CEDAW/C/PHL/CO/7-8; para. R, CEDAW/C/LAO/CO/7.

¹⁷⁰ para. 43(b), CEDAW/C/GTM/CO/8-9; para. 34(e), CEDAW/C/NPL/CO/4-5; para. 44(b), CEDAW/C/IDN/CO/6-7.

¹⁷¹ para. 34(e), CEDAW/C/NPL/CO/4-5; para. 44(b), CEDAW/C/IDN/CO/6-7; para. 43, CEDAW/C/LKA/CO/7.

¹⁷² General recommendation No. 31 (2014) (CEDAW/C/GC/31-CRC/C/GC/18), para. 70.

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67. Elimination of discrimination in access to health care is an urgent issue for trafficked women and girls who are at an increased risk of physical and psychological injury, gender-based violence, death, sexual exploitation and abuse, pregnancy and reproductive health issues, and contracting sexually transmitted diseases, including HIV, at various stages of the trafficking cycle.¹⁷³ Migrant victims of trafficking, particularly those in irregular migration situations, face administrative, linguistic, cultural and other barriers in accessing health services, including fear of retaliation from perpetrators and fear of being denounced by health service professionals for their irregular immigration status. The development of standard operating procedures for trafficking victim identification and the training of health workers on providing a gender-sensitive response are key to assisting trafficked women exit from exploitative situations.

68. Early identification and protection of presumed victims of human trafficking:

- a) **Create national guidelines and standard operating procedures on victim identification and referral that is benchmarked to international standards, integrating a gender-sensitive, victim-centered, age-, gender-sensitive and trauma-informed approach, and which is uniformly applicable throughout the territory of the State party;**¹⁷⁴
- b) **Increase the early detection capacity and authority of law enforcement and border personnel, immigration and asylum authorities, labour inspectors, social workers and health-care professionals to promptly identify trafficking and related offences against women and girls and to facilitate the referral of victims, including non-nationals, to the appropriate services, assistance and rehabilitation and social integration including by providing mandatory systematic training on the:**¹⁷⁵
 - i. **Causes, consequences and incidence of trafficking in women and girls and different forms of exploitation;**¹⁷⁶
 - ii. **Effective implementation of national guidelines on victim identification;**¹⁷⁷
 - iii. **Gender-sensitive and child-sensitive protocols**¹⁷⁸ for dealing with victims.
- c) **Adopt adequate gender-sensitive screening mechanisms for the early identification and referral of victims of trafficking among women asylum seekers**¹⁷⁹ as well as for women migrant workers suspected of breaches of national labour, immigration or criminal laws¹⁸⁰ to ensure they receive coordinated protection, assistance and support;¹⁸¹
- d) **Ensure adequate protection and support for both victims of trafficking and for presumed victims while identification processes are carried out;**¹⁸²
- e) **Introduce proactive inspections for the identification of trafficking victims in workplaces and recruitment agencies;**¹⁸³

¹⁷³ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 37.

¹⁷⁴ para. 36(d), CEDAW/C/SAU/CO/3-4; para. 23(d), CEDAW/C/ARG/CO/7.

¹⁷⁵ para. 27(a), CEDAW/C/BFA/CO/7; para. 27(d), CEDAW/C/KEN/CO/8; para. 21(c), CEDAW/C/ROU/CO/7-8; para. 29(e), CEDAW/C/CHE/CO/4-5; para. 25(e), CEDAW/C/GTM/CO/8-9; para. 40(a), CEDAW/C/TUR/CO/7; para. 25(b), CEDAW/C/ALB/CO/4; para. 28(e), CEDAW/C/BWA/CO/4; para. R, CEDAW/C/MMR/CO/3; para. 25(c), CEDAW/C/NER/CO/3-4.

¹⁷⁶ para. 21(d), CEDAW/C/MEX/CO/7-8.

¹⁷⁷ para. 25(b), CEDAW/C/THA/CO/6-7.

¹⁷⁸ para. 26(b), CEDAW/C/BRB/CO/5-8; para. 31(a), CEDAW/C/UKR/CO/8.

¹⁷⁹ General recommendation No. 32 (2014) (CEDAW/C/GC/32), paras. 44 and 46.

¹⁸⁰ para. 26(b), CEDAW/C/QAT/CO/1.

¹⁸¹ para. 30(c), CEDAW/C/ITA/CO/7; para. R, CEDAW/C/ARG/CO/6; para. 37, CEDAW/C/BOL/CO/5-6.

¹⁸² para. 20, CEDAW/C/DNK/CO/8.

¹⁸³ para. 21(c), CEDAW/C/ROU/CO/7-8; para. 27(a-b), CEDAW/C/JPN/CO/7-8.

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- f) Establish firewalls between reporting of presumed trafficking arising from labour inspections, victims' use of public services or other monitoring mechanisms, and immigration enforcement;
- g) Encourage reporting of trafficking by intensifying nationwide education and awareness-raising campaigns about the risks and criminal nature of trafficking¹⁸⁴ and setting up a 24/7 free hotline.¹⁸⁵
- h) Guarantee the anonymity and protection of both victims of trafficking and witnesses who testify in trials from their traffickers;¹⁸⁶
- i) Enhance State collaboration with civil society organizations, including through strengthening their human, technical and financial resources, to ensure that victims of trafficking are identified, assisted and protected at an early stage, including through the operation of mobile units;¹⁸⁷
- j) Empower communities through support and consultation to build strong allies for anti-trafficking efforts, including faith-based actors, who could provide critical information about trafficked women. These community-led systems should be established at locations and among groups where there may be trafficked women; including sites where forcibly displaced women and migrants are accommodated, registered or detained.
- k) Adopt a zero tolerance policy on trafficking and sexual exploitation and abuse, based on international human rights standards, which addresses such groups as national troops, peacekeeping forces, border police, immigration officials and humanitarian actors, and provide those groups with gender-sensitive training on how to identify and protect women and girls at risk and ways to report and sanction perpetrators.¹⁸⁸

b. Victim assistance and protection

69. Under international law, trafficking victims have a special status and a right to special assistance and protection measures provided by the State.¹⁸⁹ However, the implementation of these rights is largely dependent on their identification and the scope of how human trafficking is defined in national law.

70. The Committee affirms that discrimination against women is inextricably linked to other factors in their lives including being a victim of trafficking.¹⁹⁰ Trafficking victims are in need of immediate support services, including access to information on their rights, medical, psychological and legal services available to them and how to access them.¹⁹¹ Yet they often face restricted access to essential services, both in the country in which they are identified and in their community of origin.¹⁹² The provision of long term, needs-based, comprehensive victim-centred assistance and protection measures are often lacking in anti-trafficking responses.

71. The lack of availability and accessibility of assistance and protection measures is often impeded where first responders fail to conduct an appropriate risk assessment and make

¹⁸⁴ para. 28(b), CEDAW/C/NGA/CO/7-8; para. 27(c), CEDAW/C/NOR/CO/9.

¹⁸⁵ para. 27(b), CEDAW/C/RWA/CO/7-9.

¹⁸⁶ para. 21(b), CEDAW/C/ROU/CO/7-8; para. R, CEDAW/C/MMR/CO/3.

¹⁸⁷ para. 25(d), CEDAW/C/ALB/CO/4; para. 31(b), CEDAW/C/IRL/CO/6-7; para. 33(b), CEDAW/C/CAN/CO/8-9; para. 25(c), CEDAW/C/THA/CO/6-7; 21(b), CEDAW/C/EST/CO/5-6; 25(d), CEDAW/C/ALB/CO/4.

¹⁸⁸ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 41(b).

¹⁸⁹ UN Trafficking Protocol, Article 6.

¹⁹⁰ General Recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 12.

¹⁹¹ General recommendation No. 31 (2014) (CEDAW/C/GC/31-CRC/C/GC/18), para. 82.

¹⁹² A/71/303 (2016), para. 35.

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appropriate referrals. The cost and language delivery of services, and lack of gender or cultural sensitivity are further barriers. Victims may fear being forced into a rehabilitation program or cooperation with law enforcement authorities without their consent. Protection and assistance measures are frequently made conditional upon cooperation with law enforcement agents in the investigation and prosecution of trafficking offences. Engagement with the criminal justice system may result in re-traumatization due to the lack of sensitivity from anti-trafficking practitioners or secondary victimization, including prosecution for offences committed as a result of being trafficked or deportation for immigration offences such as irregular entry into a country or working without a work permit.¹⁹³

72. Strengthen the unconditional assistance and protection provided to victims of trafficking:

- a) Ensure that victims understand their entitlements to support and the continuity of their rights and entitlements when there is a change in their residence or legal status of the victim;¹⁹⁴**
- b) Apply a due diligence framework to risk assessment of trafficked persons so that they are protected against further rights violations;**
- c) Adopt a gender-sensitive policy and procedures manual for the protection of trafficked victims, including as related to the identification of their needs for assistance and support, development, implementation and monitoring of the rehabilitation plans, and reporting to the national anti-trafficking coordination authorities on the progress achieved with due consideration to data protection and confidentiality;¹⁹⁵**
- d) Provide linguistic and culturally appropriate gender-sensitive emergency and longer-term medical and social services that are accessible to all trafficking victims, regardless of their immigration status without fear of arrest or deportation;¹⁹⁶**
- e) Strengthen the provision of services to all victims of trafficking by providing enhanced human, technical and financial resources to social work centres and targeted training for social workers and medical staff dealing with victims;¹⁹⁷**
- f) Allocate adequate resources to establish sufficiently funded, well-equipped, separate shelters, or specialized units within existing shelters and crisis centres, with specially trained staff that focus on the provision of assistance specifically to women victims of trafficking ensuring they are treated with dignity and in a confidential manner;¹⁹⁸**
- g) In consultation with women civil society organizations, develop and implement standard operating procedures for these shelters which ensure consistent and high level service provision for victims;**
- h) Provide free and immediate access to these specialized shelters, high-quality medical care, psychosocial counselling, financial support, and educational and**

¹⁹³ A/71/303 (2016), para. 35.

¹⁹⁴ para. 27(c), CEDAW/C/NOR/CO/9.

¹⁹⁵ para. 26(a), CEDAW/C/BRB/CO/5-8.

¹⁹⁶ para. 41, CEDAW/C/ECU/CO/8-9; para. 37(e), CEDAW/C/THA/CO/6-7; para. 40(d), CEDAW/C/ITA/CO/7; para. 42(a), CEDAW/C/BHR/CO/3; para. 31(f), CEDAW/C/SAU/CO/3-4.

¹⁹⁷ para. 29(c), CEDAW/C/CHE/CO/4-5; para. 25(d), CEDAW/C/NER/CO/3-4; para. 30(f), CEDAW/C/ITA/CO/7.

¹⁹⁸ para. 42(c), CEDAW/C/ARE/CO/2-3; para. 23(b), CEDAW/C/TTO/CO/4-7; para. 26(e), CEDAW/C/BRB/CO/5-8; para. 31(d), CEDAW/C/UKR/CO/8; para. 23(d), CEDAW/C/ARG/CO/7; para. 27(e), CEDAW/C/KEN/CO/8; para. 28(d), CEDAW/C/BWA/CO/4; para. 19(e), CEDAW/C/ARM/CO/5-6; para. 23(c), CEDAW/C/SGP/CO/5; para. 28(a), CEDAW/C/NGA/CO/7-8; para. 19(f), CEDAW/C/ARM/CO/5-6.

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employment opportunities, in addition to access to free legal services, and specialized rehabilitation and reintegration services;¹⁹⁹

- i) Ensure that all short- and long-term assistance services for trafficked women are provided on an informed and voluntary basis and women are not placed into shelters or “rehabilitation” programmes against their will, including by courts. Shelters for trafficked women should place few, if any, limitations on women’s freedom of movement and be limited to security considerations;²⁰⁰**
- j) Ensure that social inclusion policies enacted by States for trafficking victims do not require compulsory protective detention or any other manner of arbitrary detention of women who are trafficked;**
- k) Consider supporting community-based programmes for reintegration and social inclusion, for example, through self-organised groups of trafficked women;**
- l) Commit to providing individualised support and assistance to trafficked women in the country in which they are identified that is respectful of the cultural identity of the victims;**
- m) Implement reintegration measures for victims to prevent their re trafficking and the repetition of their rights’ violations, ensuring that trafficked women are part of the design, implementation and evaluation of these measures;²⁰¹**
- n) Women who, after conducting a risk assessment cannot be safely returned to their homes, should be provided with assistance to build an independent life, including a residence permit, psychosocial support, vocational training²⁰², employment assistance, and, if necessary to ensure their safety, a changed identity.²⁰³ Ensure that the skills training that trafficked women receive correspond to the local market needs and women’s own ambitions, and result in receipt of a living wage, avoiding gender stereotypes;**
- o) In cooperation with consular services, facilitate the issuance of official identification documents (e.g. passports) of trafficked migrant women from their country of origin without requiring their return;**
- p) Provide long-term, sustainable funding for social inclusion;**
- q) Adopt targeted laws, policies and programmes to ensure equal rights for women belonging to disadvantaged and marginalized groups, such as forcibly displaced women and migrant women, by ensuring that they receive adequate assistance, and that they benefit from integration policies as well as family reunification measures.²⁰⁴**

73. Ensure that trafficked women and girls are accorded all of their human rights, including those to which they are entitled as victims of crime and of human rights violations. These include the rights to receive protection from further harm including special consideration and care to avoid re-traumatisation in the course of any legal and administrative procedures, to be treated with compassion and respect for their dignity and human rights, to be provided with access to justice and prompt and effective remedies including compensation, regardless of the individual’s immigration status, presence in the

¹⁹⁹ para. 21(b), CEDAW/C/CZE/CO/6; para. 25(d), CEDAW/C/GTM/CO/8-9; para. 23(d), CEDAW/C/ARG/CO/7; para. 27(e), CEDAW/C/KEN/CO/8; para. 28(d), CEDAW/C/BWA/CO/4; para. 25, CEDAW/C/MNE/CO/2; para. 25(b), CEDAW/C/HND/CO/7-8; para. 40(b), CEDAW/C/TUR/CO/7; para. 27(b), CEDAW/C/LKA/CO/8; para. 27(b), CEDAW/C/BFA/CO/7; para. 21(a), CEDAW/C/ROU/CO/7-8.

²⁰⁰ para. 20, CEDAW/C/DNK/CO/8.

²⁰¹ para. 28(e), CEDAW/C/NGA/CO/7-8.

²⁰² para. 29(c), CEDAW/C/PRT/CO/8-9; para. 32, CEDAW/C/ARE/CO/2-3; para. 28(a), CEDAW/C/NGA/CO/7-8; para. 19(f), CEDAW/C/ARM/CO/5-6; para. 26(e), CEDAW/C/BRB/CO/5-8; para. 31(d), CEDAW/C/UKR/CO/8.

²⁰³ para. 33(e), CEDAW/C/TUR/CO/7.

²⁰⁴ para. 37(b), CEDAW/C/HUN/CO/7-8; para. 39(h), CEDAW/C/ALB/CO/4.

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country of jurisdiction, criminal case against or identification of the trafficker, or involvement in any investigation or other legal process.

74. Ensure that trafficked women and girls are not, in any circumstances, held in immigration detention or other forms of custody and will not be detained, charged or prosecuted for irregular entry or stay in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as victims of trafficking.

75. Ensure that women who are victims of trafficking, irrespective of their ethnic, national or social background and legal status, are provided with adequate protection during and after the proceedings of cases, such as witness protection programmes, court procedures that take into account their specific needs, and temporary residence permits for non-citizen women, irrespective of their willingness or ability to cooperate with the law enforcement and prosecution authorities.²⁰⁵ Provide long-term funding to ensure the effective and sustainable implementation of the protection systems for victims of trafficking.²⁰⁶

76. Grant temporary or permanent residence permits to enable trafficked women to remain in the country in which they have been identified as a victim, considering humanitarian and compassionate factors, and to take part in protective and rehabilitation measures.²⁰⁷ Such permits should not be conditional on law enforcement cooperation. During this period, of at least one year following formal identification, victims should be granted access to accommodation, welfare benefits, authorization to work, vocational training, medical care and counseling, to enable them to begin a process of recovery and reintegration.

VI. Victims' access to justice

77. The international human rights framework provides for comprehensive and effective due diligence on the part of States along with the responsibility to ensure prosecution of perpetrators and an integrated holistic approach to providing compensation and rehabilitation for trafficking victims. According to article 2(e) of the Convention, States parties will be held responsible should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by both State and non-State actors, including private individuals or entities, that result in gender-based violence against women, including trafficking in women.²⁰⁸ In its general recommendation No. 35 (2017), the Committee stated that failure or omission of the State party to do so provides tacit permission or encouragement to perpetrate acts of gender-based violence against women.²⁰⁹

²⁰⁵ General recommendation No. 33 (2015) (CEDAW/C/GC/33), para. 51; para. 25, CEDAW/C/MNE/CO/2; para. R(d), CEDAW/C/LIE/CO/4; para. 33(c), CEDAW/C/KWT/CO/3-4; paras. 31(d) and 36(e), CEDAW/C/SAU/CO/3-4; para. 25(b), CEDAW/C/NER/CO/3-4; para. 25(d), CEDAW/C/THA/CO/6-7; para. 25(c), CEDAW/C/ALB/CO/4; para. 27(b), CEDAW/C/AFG/CO/1-2; para. 27(c), CEDAW/C/LKA/CO/8; para. 28(d), CEDAW/C/BWA/CO/4; para. 21(d), CEDAW/C/EST/CO/5-6.

²⁰⁶ para. 30(d), CEDAW/C/ITA/CO/7.

²⁰⁷ para. 25(e), CEDAW/C/KHM/CO/4-5; para. 44, CEDAW/C/JOR/CO/5; para. 26(c), CEDAW/C/QAT/CO/1; para. 29(d), CEDAW/C/CHE/CO/4-5; para. 29(c), CEDAW/C/PRT/CO/8-9; para. 32, CEDAW/C/ARE/CO/2-3; Trafficking Protocol, Article 7

²⁰⁸ General recommendations: No. 35 (2017) (CEDAW/C/GC/35), paras. 23-24(2(b)); No. 30 (2013) (CEDAW/C/GC/30), paras. 15 and 41(a); No. 28 (2010) (CEDAW/C/GC/28), paras. 19 and 34.

²⁰⁹ General recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 24(2(b)).

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78. The Committee notes the high level of impunity enjoyed by perpetrators of trafficking and draws a link to the gender-related factors underpinning trafficking in women, which, as recognized in general recommendation No. 35 (2017), contribute to the explicit or implicit social acceptance of gender-based violence against women, often still considered a private matter, and to the widespread impunity in that regard.²¹⁰

79. Criminal laws are particularly important in ensuring that women are able to exercise their human rights, including their right to access justice on the basis of equality. States parties are obliged, under articles 2 and 15 of the Convention, to ensure that women have access to the protection and remedies offered through criminal law, and that they are not exposed to discrimination within the context of those mechanisms, either as victims or as perpetrators of criminal acts.²¹¹

80. Existing justice systems may be more likely to violate women's rights than to protect them,²¹² including by subjecting victims to criminalization, stigmatization, revictimization, harassment and possible retribution. The complexity of proceedings, lack of special court procedures to accommodate victims' needs, lack of access to high-quality, gender-competent legal advice, including legal aid, as well as the often-noted deficiencies in the quality of justice systems including gender-insensitive judgments or decisions owing to a lack of training, delays and excessive length of proceedings, corruption of State officials and their implication in crime, all prevent female victims of trafficking from gaining access to justice.²¹³ Furthermore, victims of trafficking may be subject to prosecution for acts they were forced to commit as part of their exploitation.

81. The Committee has documented many examples of the negative impact of intersecting forms of discrimination on access to justice, including ineffective remedies, for specific groups of women²¹⁴ including for trafficking victims, forcibly displaced, stateless, or migrant women.²¹⁵ Women belonging to such groups often have a heightened vulnerability to mental, sexual and physical abuse and threats during arrest, questioning and detention.²¹⁶ Often they do not report violations of their rights to the authorities for fear that they will be humiliated, stigmatized, arrested, deported, tortured or have other forms of violence inflicted upon them, including by law enforcement officials. The Committee has noted that when women from those groups lodge complaints the authorities frequently fail to act with due diligence to investigate, prosecute and punish perpetrators and/or provide remedies.²¹⁷ Non-citizen women who have been trafficked may be restricted from accessing the national court system.²¹⁸

82. The availability and accessibility of judicial and quasi-judicial mechanisms and remedies under civil, administrative and labour law should be guaranteed to women on a basis of equality and non-discrimination.²¹⁹ Eliminating gender stereotyping in the justice system is a crucial step in ensuring equality and justice for victims of trafficking.²²⁰ Stereotyping compromises the impartiality and integrity of the justice system, which can, in turn, lead to

²¹⁰ General recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 19.

²¹¹ General recommendations: No. 28 (2010) (CEDAW/C/GC/28), para. 34; No. 33 (2015) (CEDAW/C/GC/33), para. 47; No. 31 (2014) (CEDAW/C/GC/31-CRC/C/GC/18), para. 85.

²¹² General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 74.

²¹³ General recommendation No. 33 (2015) (CEDAW/C/GC/33), para. 13.

²¹⁴ General recommendation No. 33 (2015) (CEDAW/C/GC/33), paras. 3 and 22.

²¹⁵ General recommendation No. 33 (2015) (CEDAW/C/GC/33), para. 9.

²¹⁶ General recommendation No. 33 (2015) (CEDAW/C/GC/33), para. 48.

²¹⁷ General recommendation No. 33 (2015) (CEDAW/C/GC/33), para. 10.

²¹⁸ General recommendation No. 26 (2008) (CEDAW/C/2009/WP.1/R), para. 21.

²¹⁹ General recommendations: No. 37 (2018) (CEDAW/C/GC/37), para. 52; No. 33 (2015) (CEDAW/C/GC/33), para. 43.

²²⁰ General recommendation No. 33 (2015) (CEDAW/C/GC/33), para. 28.

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miscarriages of justice preventing women from claiming their rights and access to effective remedies.²²¹

83. States parties must have an effective and accessible legal services framework in place to address all forms of gender-based violence against women committed by State agents and non-State actors, whether on their territory or extraterritorially, that takes into consideration the diversity of victims and the risks of intersecting forms of discrimination.²²² Women must have access to education and information about their rights and the remedies that are available and how to gain access to them. The remedies must be affordable, accessible and timely, and women must be provided with free legal aid, advice and representation in judicial and quasi-judicial processes in all fields of law.²²³ Alleged violations of women's rights are to be settled in a fair hearing by a competent and independent court or tribunal, where appropriate.²²⁴

84. Ensure access to justice for all trafficking victims, including forcibly displaced and migrant women, including those in an irregular situation:

- a) Raise awareness about their rights under the Convention and its Optional Protocol²²⁵, the legal provisions protecting them from trafficking and exploitation and corresponding remedies to complain about violations of those rights;²²⁶**
- b) Establish accessible legal aid systems and legal information sharing systems for victims;²²⁷**
- c) Ensure that, in administrative and judicial proceedings, including detention and expulsion proceedings, trafficking victims are guaranteed due process before the courts;²²⁸**
- d) Develop comprehensive gender-sensitive policies, strategies and programmes aimed at facilitating trafficking victims' access to justice, while ensuring fair trial guarantees;²²⁹**
- e) Design, implement and evaluate the impact of capacity-building programmes on women's rights and gender equality for lawyers, judges, prosecutors and police officers;²³⁰**
- f) Repeal or amend laws that prevent any woman, including non-citizen women, from using the courts and other systems of redress;**
- g) Particularly for non-citizen women, provide effective channels for seeking protection and redress for violations of their rights by creating adequate conditions to bring complaints, in a language that they can understand, against their traffickers without fear of reprisals, arrest, detention or deportation;²³¹**

²²¹ General recommendations: No. 33 (2015) (CEDAW/C/GC/33), para. 26; No. 33 (2015) (CEDAW/C/GC/33), para. 7.

²²² General recommendation No. 35 (2017) (CEDAW/C/GC/35), paras. 22-23.

²²³ General recommendation No. 35 (2017) (CEDAW/C/GC/35), para. 36.

²²⁴ General recommendations: No. 28 (2010) (CEDAW/C/GC/28), para. 34; No. 33 (2015) (CEDAW/C/GC/33), paras. 11 and 32.

²²⁵ para. 72, CEDAW/C/SAU/CO/3-4; para. 11(b) CEDAW/C/NOR/CO/9.

²²⁶ para. 35(a), CEDAW/C/MDV/CO/4-5; para. 38(c), CEDAW/C/PHL/CO/7-8; para. 9(b), CEDAW/C/CAN/CO/8-9; para. 44(c), CEDAW/C/ISL/CO/7-8.

²²⁷ para. 35(f), CEDAW/C/CAN/CO/8-9; para. 19(d), CEDAW/C/VEN/CO/7-8; para. 44(c), CEDAW/C/ISL/CO/7-8.

²²⁸ para. 31(g), CEDAW/C/SAU/CO/3-4.

²²⁹ para. 16, CEDAW/C/ARE/CO/2-3.

²³⁰ para. 16, CEDAW/C/ARE/CO/2-3.

²³¹ para. 40(c), CEDAW/C/ITA/CO/7; para. 30(g), CEDAW/C/AND/CO/2-3; para. 44, CEDAW/C/JOR/CO/5; para. 26(e), CEDAW/C/QAT/CO/1; para. 34(f), CEDAW/C/NPL/CO/4-5; para. 44(c), CEDAW/C/IDN/CO/6-7; para. 27(d), CEDAW/C/NOR/CO/9; para. 21(b), CEDAW/C/FIN/CO/7; para. 29(c), CEDAW/C/PRT/CO/8-9; para. 32, CEDAW/C/ARE/CO/2-3.

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- h) Provide forcibly displaced women victims of trafficking with access to justice, including through the deployment of mobile courts to camps, rural areas and border zones.**²³²

a. Investigations, prosecutions and punishment

85. The Committee acknowledges the complexity and the high level of skill required to investigate and prosecute allegations of trafficking in women and girls that often implicate a criminal network operating transnationally. Over-reliance by the prosecution on witness testimonies is often insufficient to secure a conviction. Low rates of investigations, prosecutions and convictions can also be attributed to lengthy legal proceedings, lack of trafficking expertise among judges and prosecutors, complicity of State officials, gender bias in courts, difficulties in securing victim cooperation due to lack of victim-friendly approaches and procedures, and low corporate accountability.

86. The Committee condemns the use of anti-trafficking interventions to justify violence against specific groups of women, particularly in the case of violent raids and entrapment operations by law enforcement authorities conducted with a view to dismantling trafficking networks.

87. International and regional agreements on investigating trafficking offences: Build the capacity and accountability of specialized law enforcement units to proactively investigate organized crime linked to trafficking²³³, including through international, regional and bilateral cooperation with countries of origin, transit and destination to detect, investigate and prosecute trafficking in women and girls by exchanging information including by executing memorandums of understanding with other countries in the region²³⁴ and harmonizing legal procedures to prosecute traffickers.²³⁵

88. Prosecutions

- a) Ensure the timely prosecution and adequate punishment of trafficking in women and girls and related offences, whether perpetrated by public authorities or private actors, including by developing gender-specific guidance on collection of evidence and the conduct of the proceedings;**
- b) Adopt specific protection measures for victims of trafficking that take into account the needs of women subjected to multiple forms of discrimination, including forcibly displaced and migrant women;**²³⁶
- c) Provide capacity building for judges, prosecutors and police officers on the robust application of criminal law provisions to prosecute traffickers, on the principles**

²³² para. 49(b), CEDAW/C/RWA/CO/7-9; para. 11(c), CEDAW/C/NER/CO/3-4; para. 19(d), CEDAW/C/VEN/CO/7-8.

²³³ para. 25(a-b), CEDAW/C/GTM/CO/8-9; para. 21(a), CEDAW/C/CRI/CO/7; para. 23(b), CEDAW/C/SGP/CO/5; para. 31(a), CEDAW/C/IRL/CO/6-7.

²³⁴ para. 27(f), CEDAW/C/LKA/CO/8.

²³⁵ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 41(d); para. 28(f), CEDAW/C/BWA/CO/4; para. 20(f), CEDAW/C/MUS/CO/8; para. 29(d), CEDAW/C/PSE/CO/1; para. 36(f), CEDAW/C/SAU/CO/3-4; para. 27(f), CEDAW/C/KEN/CO/8; para. 23(e), CEDAW/C/SGP/CO/5; para. 25(f), CEDAW/C/THA/CO/6-7; para. 28(c), CEDAW/C/NGA/CO/7-8; para. 6(d), CEDAW/C/BRB/CO/5-8; para. 30(j), CEDAW/C/ITA/CO/7; para. 31(a), CEDAW/C/UKR/CO/8; para. 19(h), CEDAW/C/ARM/CO/5-6; para. 25(d), CEDAW/C/HND/CO/7-8; para. 23(f), CEDAW/C/ERI/CO/5; para. 25(d), CEDAW/C/GAB/CO/6.

²³⁶ General recommendation No. 30 (2013) (CEDAW/C/GC/30), paras. 32(a) and 41; para. R, CEDAW/C/MMR/CO/3; para. 38(d), CEDAW/C/LBN/CO/4-5; para. 38(d), CEDAW/C/PHL/CO/7-8; para. 20(f), CEDAW/C/AGO/CO/6; para. 19(d), CEDAW/C/VEN/CO/7-8; para. 40(b), CEDAW/C/ITA/CO/7; para. 36(c), CEDAW/C/NLD/CO/6; para. 37(e), CEDAW/C/THA/CO/6-7.

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- of equality and non-discrimination on the basis of sex and gender, including effective gender and culturally-sensitive ways to deal with trafficking victims;²³⁷
- d) Ensure that trafficked women are informed about their rights in a language and manner understandable to them, are consulted throughout the prosecution²³⁸, and have adequate support so as to be in a position to provide testimony against their traffickers²³⁹, including, where appropriate, the possibility of deposing via television or video links or pursuant to mutual assistance arrangements;
 - e) Make arrangements for interim relief in order to fulfill daily basic needs or necessities of trafficking victims during the proceedings of the case;
 - f) Consider holding legal proceedings in the home district of trafficked women and girls to facilitate their participation.
89. **Complicity of public officials:** Ensure that traffickers, both those who are directly involved in trafficking and those who are negligent in dealing with or preventing trafficking cases, including alleged corruption of government officials or their agents, are investigated, prosecuted and adequately punished.²⁴⁰
90. **Adequate punishment:** Ensure that the sanctions imposed on all convicted perpetrators of trafficking and related crimes are commensurate with the gravity of the crime and the degree of responsibility of the offender, such that traffickers are adequately punished that fines and other non-custodial sentences are not considered as a possible sanction.²⁴¹
91. **Victim's exemption from criminal liability:**
- a) Ensure that women victims of trafficking, with no distinction made on the basis of their ethnic, national or social background and legal status, are exempted from any criminal or administrative liability for acts committed as a result of their trafficking situation, irrespective of their ability or willingness to cooperate with the prosecutorial authorities;²⁴²
 - b) Ensure that trafficking victims are not compelled to provide evidence or testimony in exchange for immunity from prosecution redress or services;
 - c) Provide recourse for trafficking victims who have been arrested or convicted for offences that were committed as a direct result of their being trafficked so they can clear their criminal records.
92. **Adverse collateral effects of anti-trafficking efforts**
- a) Ensure that anti-trafficking legislation and directives are not misused by authorities to impose increased restrictions on communities or falsely arrest and charge innocent people, particularly women from disadvantaged groups and women in prostitution;²⁴³

²³⁷ General recommendations: No. 28 (2010) (CEDAW/C/GC/28), paras. 17 and 33; No. 33 (2015) (CEDAW/C/GC/33), para. 22; para. 19(c), CEDAW/C/ARM/CO/5-6; para. 21(e), CEDAW/C/TLS/CO/2-3; para. 23(b), CEDAW/C/CHE/CO/4-5; para. 27(b), CEDAW/C/IRL/CO/6-7.

²³⁸ para. 19(b), CEDAW/C/ARM/CO/5-6; para. 27(c), CEDAW/C/KEN/CO/8.

²³⁹ para. 27(b), CEDAW/C/NZL/CO/7.

²⁴⁰ para. 25(e), CEDAW/C/THA/CO/6-7; para. 21(b), CEDAW/C/ROU/CO/7-8; para. 23(c), CEDAW/C/TTO/CO/4-7; para. R, CEDAW/MMR/CO/3.

²⁴¹ para. 36(b), CEDAW/C/SAU/CO/3-4; para. 25, CEDAW/C/MNE/CO/2; para. 30(b), CEDAW/C/ITA/CO/7; para. 28(a), CEDAW/C/BWA/CO/4; para. 23(d), CEDAW/C/SGP/CO/5.

²⁴² para. 36(e), CEDAW/C/SAU/CO/3-4; para. 25(b), CEDAW/C/NER/CO/3-4; para. 25(d), CEDAW/C/THA/CO/6-7; para. 25(c), CEDAW/C/ALB/CO/4; para. 27(b), CEDAW/C/AFG/CO/1-2; para. 20(d), CEDAW/C/MUS/CO/8. See also: Inter-Agency Coordination Group against Trafficking of Persons (ICAT), *Issue Brief on Non-Punishment of Victims of Trafficking*, (forthcoming).

²⁴³ para. R, CEDAW/MMR/CO/3; para. 28(f), CEDAW/C/NGA/CO/7-8.

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- b) **Ensure that raids conducted by law enforcement authorities with a view to dismantling trafficking networks do not justify or result in criminal prosecution or other coercive measures, including gender-based violence, abuse and harassment, against any group of women;**
- c) **Ensure that no group of women is targeted for investigation or prosecution, discrimination, stigmatisation, or suffers from the lack of rights and protections, under the guise of combatting trafficking, including violations of their rights to movement, assembly, health and safety, to dignity and livelihood;**
- d) **Discontinue anti-trafficking measures that involve the apprehension, detention and involuntary rehabilitation of women, which are often experienced as antagonistic and traumatic;**
- e) **Ensure that anti-trafficking efforts are not used as a means to deport migrant women with an irregular immigration status.**

b. Remedies for victims of trafficking

93. Article 2(b) of the Convention obligates States parties, by law, to provide appropriate remedies including the provision of reparations, to women whose Convention rights have been violated.²⁴⁴

94. Victims of trafficking often encounter significant difficulties in claiming compensation and other forms of reparation for damages and harms suffered.²⁴⁵ Efforts to claim compensation may be frustrated where: it is made conditional upon cooperation with law enforcement authorities; residency permits are tied to criminal justice processes and repatriation occurs prior to seeking or obtaining civil remedies; the burden of proof is shifted on the victim in civil claims; victims of trafficking are not identified as victims of a crime for the purpose of reparations owed under law; or where monetary compensation is unavailable or the proceeds of crimes are not redistributed to victims.

95. States parties have obligations both within and outside their territories to ensure the full implementation of the Convention.²⁴⁶ The transnational nature of human trafficking and migration requires cooperation by all affected countries, that of origin, transit and destination, and their participation in an effective and appropriate international response to protect the rights of victims.²⁴⁷

96. Compensation and rehabilitation

- a) **Ensure that all trafficked women, irrespective of their ethnic, national or social background and legal immigration status, obtain effective protection and redress, including rehabilitation and compensation;**²⁴⁸
- b) **Ensure that trafficked women are provided with timely and comprehensive information about their right to access legal aid, compensation, and remedies in a language and manner that they can understand, regardless of their residence status;**²⁴⁹

²⁴⁴ General recommendation No. 28 (2010) (CEDAW/C/GC/28), paras. 17 and 32.

²⁴⁵ General recommendation No. 37 (2018) (CEDAW/C/GC/37), para. 37.

²⁴⁶ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 11.

²⁴⁷ General recommendation No. 37 (2018) (CEDAW/C/GC/37), para. 43.

²⁴⁸ para. 30(g), CEDAW/C/ITA/CO/7; para. 33(f), CEDAW/C/CAN/CO/8-9; para. 22(f), CEDAW/C/SVN/CO/5-6; para. 36(e), CEDAW/C/SAU/CO/3-4; para. 25(b), CEDAW/C/NER/CO/3-4; para. 25(d), CEDAW/C/THA/CO/6-7; para. 25(c), CEDAW/C/ALB/CO/4; para. 27(b), CEDAW/C/AFG/CO/1-2; para. 24(c), CEDAW/C/QAT/CO/1; para. 20(f), CEDAW/C/AGO/CO/6; para. 19(d), CEDAW/C/VEN/CO/7-8.

²⁴⁹ para. 20(d-e), CEDAW/C/MUS/CO/8.

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- c) **Financially support independent associations, legal professionals and social services centres providing legal resources to educate women about their rights to equality and assist them in pursuing remedies;**²⁵⁰
 - d) **Ensure, through legislative and other means, that trafficked women can access the right to remedy and compensation through different avenues, such as criminal, civil and labour courts, and that victims are compensated, as far as possible, commensurate with their loss, injury and suffering;**
 - e) **Adopt legislation on the organization, allocation and functioning of a special compensation fund for victims of and witnesses to trafficking and allocate sufficient funds for them.**²⁵¹ **Ensure that the conditions to access funding from the compensation fund are reasonable and swift and do not place undue burden on trafficked women, and are not made conditional on confiscation of assets from their traffickers;**
 - f) **De-link funding and support for female victims of trafficking from their participation in the criminal justice process.**
- 97. Tracking proceeds of crime**²⁵²:
- a) **Build investigative teams capable of tracking the financial flows that trafficking in women and girls generates, striking with sequestrations and confiscation of all the capital attributable to such criminal conduct, also tracing and revealing the channels of recycling and cleaning money;**
 - b) **Strengthen and adopt specialized Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) measures that are necessary to identify, disrupt, and confiscate illicit revenues from trafficking;**
 - c) **Ring-fence any confiscated funds for the purpose of redistribution to victims primarily by way of compensation for the human rights violations that they have suffered;**
 - d) **Issue guidelines and hold relevant private actors accountable for violations of AML/CFT laws relating to human trafficking.**

VII. Dissemination and reporting

98. The Committee underscores the need to accelerate the implementation of all the provisions of the Convention in line with the 2030 Agenda for Sustainable Development and the recommendations emanating from the Beijing +25 review, as a means to induce transformative and radical change in women's exercise of their autonomy and self-determination.

99. States parties are recommended to include information in their periodic reports to the Committee on the legal frameworks, strategies, budgets and programmes that they have implemented to ensure that the human rights of women are promoted and protected within policies relating to preventing and combatting trafficking in women.

100. States parties' strategies to implement a gender-transformative anti-trafficking response should be included in their reporting to other mechanisms, including under the: Universal Periodic Review process of the United Nations Human Rights Council; High Level Political Forum on Sustainable Development; Global Compact on Safe, Regular and Orderly Migration; and the Mechanism for the Review of Implementation of the Convention against Transnational Organized Crime and the Protocols Thereto.

²⁵⁰ General recommendation No. 30 (2013) (CEDAW/C/GC/30), para. 15.

²⁵¹ para. 25(a), CEDAW/C/NER/CO/3-4; para. 23(h), CEDAW/C/BLR/CO/8.

²⁵² See also: OSCE/Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, *Following the Money: Compendium of Resources and Synthesized Step-by-Step Guide to Financial Investigations related to Trafficking in Human Beings* (Vienna 2019).

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101. The United Nations specialized agencies, rapporteurs and experts are invited to provide country and regional-specific input to the Committee on the situation of trafficking in women and girls as appropriate to the State party under review.

102. This general recommendation should be translated into local languages, including indigenous and minority languages, provide summaries in clear language, and disseminated widely to all branches of government, civil society, the media, academic institutions, women's rights organizations, the private sector and financial institutions.

VIII. Treaty ratification or accession

103. States parties are encouraged to ratify or accede to the:

- a) **Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;**
- b) **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;**²⁵³
- c) **Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;**²⁵⁴
- d) **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;**²⁵⁵
- e) **ILO Labour rights framework, including for the governance of labour migration and protection of migrant workers.**²⁵⁶

²⁵³ para. 25(e), CEDAW/C/MDV/CO/4-5.

²⁵⁴ para. R(e), CEDAW/C/LIE/CO/4.

²⁵⁵ para. 31, CEDAW/C/ROU/CO/7-8.

²⁵⁶ ILO: Migration for Employment Convention (Revised), 1949 (No. 97) and its accompanying Migration for Employment Recommendation (Revised), 1949 (No. 86); ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) together with the Migrant Workers Recommendation, 1975 (No. 151). Private Employment Agencies Convention, 1997 (No. 181) (ref. in para. 20(c), CEDAW/C/CYP/CO/6-7), and the Domestic Workers Convention, 2011 (No. 189) (ref. in para. 25(c), CEDAW/C/GAB/CO/6; 38(b), CEDAW/C/LBN/CO/4-5); Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (35(d), CEDAW/C/SGP/CO/5); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ref. in para. 37(f), CEDAW/C/THA/CO/6-7).