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Ruhama's submission to the CEDAW Committee

Sent to Ms. Daniela Buchmann via email (policy@ruhama.ie to dbuchmann@ohchr.org)

Dear esteemed Committee Members,

The below signatory, Ruhama, welcomes the opportunity to submit for your consideration our submission on the Concept Note for the General Discussion on Trafficking in Women and Girls in the Context of Global Migration (hereafter the 'Concept Note'). Ruhama believes this is an apt moment for the consolidating, refining and further development of recommendations to end the impunity of all those who exploit vulnerability of migrant women and girls.

About Ruhama, supporting women affected by prostitution and sex trafficking in Ireland

[Ruhama](#) is a specialist NGO providing holistic support on a national basis in the Republic of Ireland to women affected by prostitution, including women who have been trafficked for sexual exploitation. We are the only specialist agency doing this work at a national level in Ireland. We have been providing direct services for 30 years and have worked with thousands of women of over 60 nationalities. We currently support approximately 300 women per year, including women involved in on-street prostitution (about 25% of our client group) and off-street prostitution (about 75%), of whom over 1/3 will be victims of sex trafficking each year. We offer a wide range of supports, including:

- Needs assessment
- Individual casework support and advocacy
- Care planning and case management
- Out-of-hours emergency response
- Crisis accommodation in emergency situations
- One-to-one and group education, training and development opportunities
- Support for women participating in the criminal justice process
- Support into mainstream education, training and employment
- Housing and social welfare support
- Mobile street outreach to Dublin's 'red light' areas
- Outreach service to the women's prison in Dublin
- Outreach service to HSE Women's Health Service (sexual health clinic)
- Emotional and psychological supports, including counselling
- Addiction support
- Support with immigration issues and repatriation
- Interpretive support
- Referral to other key agencies.

At the core of our work are the direct services we provide to the women who need our support. However, we are also very active in advocating for social, political and legal measures that uphold these women's rights, and contribute to the national and international fight against the global sex trade.

Given our expertise in responding to the issues of prostitution and sex trafficking, Ruhama is often called upon to give evidence in other jurisdictions, and as such we believe that we are well-placed to make a submission to the CEDAW Committee, and grateful for the opportunity to do same.

1. Substantive contribution for consideration

We commend the Committee for the Elimination of Discrimination Against Women for the timely consultation process and consideration for a General Recommendation on trafficking in women and girls in the context of global migration. Ruhama welcomes this initiative on the issue and hopes that this consultation will lead to the Committee formalising a General Recommendation which will build on its past work in recognising the inequality, exploitation and violence inherent to trafficking of women and girls for sexual exploitation, its disproportionate impact on migrant women and girls, and the interconnectedness of prostitution and trafficking for sexual exploitation.

We thank you for setting out to expand on the guidance to State parties in relation to Article 6 of the 1979 Convention on the Elimination of All Forms of Discrimination against Women (hereafter 'Article 6' and '1979 Convention'). Since Article 6 was first published 40 years ago, the phenomenon of trafficking in human beings has continued to grow in scale and profitability for the international criminal gangs who drive it. Also in the past four decades, a number of law and policy responses have been developed and implemented on both prostitution and trafficking. **It is therefore timely to review the impact of these policy trends and to urge State parties to the Convention to take more proactive steps to end these forms of violence against women, based on successful practices identified which we set out to highlight below.**

We urge the CEDAW Committee to draft the General Recommendation by taking into account all political (contextual) factors intersecting with the THB of girls and women and not solely the current global migration trends.

When considering THB in the context of migration, migration should be understood as a permanent and positive aspect of modern society, and current high levels of unsafe, illegal migration as contravening human rights principles and a result of ongoing conflict, climate change and a lack of safe passage routes. The lack of safe and legal routes to migration is one of the factors contributing to the vulnerability of migrant women and girls into trafficking for exploitation in prostitution and labour exploitation. Other factors include feminisation of poverty, women's low access to education, asset and land ownership, women's low participation in decision-making, child/early and forced marriage, economic inequalities between the Global South and the Global North and pervasiveness of patriarchal sex roles. As a result of these clustered discriminations and vulnerabilities, particularly in the Global South, organised trafficking rings target girls and women - by using the position of vulnerability and abuse of power, through coercion, abuse, threat and deceit - generating the supply for the demand in the system of prostitution both in the Global North and the Global South.

Any specific exploration of the current trends in global migration through the lens of impact on women and girls would by necessity include the documented corruption within visa processing centres, refugee camps and detention centres, and actions to bring an end to the possibility of criminal gangs working closely with migration authorities. **We urge the CEDAW Committee in its Recommendation to give a due consideration to a human-rights analysis of the impact of migration on multiple forms of violence against women and girls, of which THB is a part.** This should include women's SRHR; safe housing needs; impunity of sexual violence perpetrators along migration routes and within refugee facilities, including smugglers, traffickers but also aid workers national State actors and fellow male refugees; and a deeper analysis of forced and exploitative sham marriage.

However, we are concerned that the focus of the General Recommendation under consideration is primarily upon only one aspect of the Article. The substantive aspects of the Concept Note consider the issue of trafficking in human beings, but does not fully elaborate on the issue of the “exploitation of prostitution of women” (1979 Convention, Article 6). **Within the context of global migration, the issues of prostitution and trafficking for sexual exploitation remain intrinsically linked and thus, the full text of the article must be taken under consideration for elaboration.** Despite Concept Note Paragraph 53 stating that the General Recommendation “will not broach a policy discussion on the theme of prostitution”, we posit that the input sought under Paragraph 54 **must by necessity include an analysis and response to the system of prostitution.** We also urge further consideration of the need for full inclusion of, and alignment with, the full text of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, in particular Article 9.5: *“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.”*

Furthermore, there are many international human rights instruments (see headings 2 and 3) which emphasise the need to take into consideration both prostitution and trafficking for sexual exploitation when working towards prevention of commercial sexual violence against women. **At the core driving prostitution and trafficking is the demand for paid sex acts.** Thus, we particularly **welcome** the recognition that addressing the demand is required as an aspect of responding (Concept Note, par 18, 52) – of course this cannot be addressed in terms of demand for victims of trafficking for exploitation as the demand is for *paid sexual services*. Therefore, **any measures to address demand must be targeting the prostitution system as a whole**, and all of those who seek to pay for sexual services. We look forward to seeing expansion on detailed proposals for how demand can be credibly addressed by State parties.

Ruhama supports the Swedish/Nordic approach, which puts back the responsibility where it should be: trafficking exists because the systems of prostitution exist and are very profitable. And those systems of prostitution exist and are profitable because there is a demand, and because traffickers and pimps play with this demand and therefore build and look for ‘supply’ to perpetuate and fuel the demand. **We therefore need to address sex buyers, to stop the demand and therefore the ‘supply’.** Prohibiting the purchase of a sexual act would send a clear message, both to society and to the procurers and traffickers. To the general audience and therefore to men, it conveys the message that one cannot access to someone else’s body through money, and that paying for sex equals imposing its desire on someone else with money.

We would welcome consideration of a development under Concept Note, Paragraph 54 to outline specific means to address demand for paid sexual acts, and recognise that in so doing, **State parties have a responsibility to provide exit routes to those impacted:** these must include health support, access to social support systems, financial compensation employment, language and integration supports for those requiring it, and stable housing. Such supports should be made available independent to cooperation with an ongoing criminal procedure against a trafficker, buyer or pimp. We urge that specific mention is made for stronger judicial accountability systems and access to services for women and girl survivors of commercial sexual exploitation.

We hereby register our significant concern with the use of the term “forced prostitution” (Concept Note, Paragraphs 29, 30). This is not in line with UN language (1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, 1979 Convention on the Elimination of All Forms of Discrimination against Women) and the concept of ‘forced’ prostitution gives legitimacy to the possibility of a viable or acceptable other form of prostitution, despite the significant and unavoidable prevalence of severe violence experienced in the trade in addition to its power inequality and the racism, sexism and classism that is at the core of its existence. Similarly, the wording of Concept Note Paragraph 30 implies that the “listed purposes of trafficking”, including for sexual exploitation and marriage, could be considered as forms of “work”. **Sexual exploitation including in any aspect of the commercial sex trade cannot be considered as ever potentially aligning with basic safety, regulatory or equality- and anti-discriminatory frameworks of labour.**

It is crucial that a clear distinction is made between prostitution and trafficking for sexual exploitation, and labour trafficking: ILO statistics referred to do not show a clear disaggregation of these issues, including “forced

sexual exploitation” under “forced labour” (Concept Note, Paragraph 37). We strongly urge the removal of any links made between child rape and ‘work’: ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which includes the prostitution of children and violates Palermo, UN Convention on the Rights of the Child and 1979 Convention. While a clear separation of labour trafficking from sexual exploitation must be delineated, **it should also be recognised that migrant women and girls who are victims of labour trafficking, domestic work, made vulnerable by a precarious legal status may face particular vulnerability to being coerced or exploited in the sex trade, and specific provisions and responses should be made in response to this.**

We welcome the recognition under Concept Note Paragraph 44 of “Article 10 and GR No. 36 (2017) – Rights to education, within education and through education” and **propose that specific mention of the need for language supports where needed and education on sexual and reproductive health and rights could further strengthen this point.** Similarly, we welcome the particular focus on access to **healthcare** brought in Concept Note Paragraph 46, and **we support further expansion on the specialised needs in relation to mental health support for victims of trafficking for sexual exploitation and women and girls in prostitution.**

2. Relevant texts of the United Nations

In particular, Ruhama highlights the **1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others**, which has been adopted by the UN General Assembly (the same GA who adopted the Universal Declaration for Human Rights), and the **1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**.

The **1949 Convention** states: “Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person” (Preamble).

The Convention calls member parties to support persons in prostitution by suppressing any criminalisation against them, and criminalise all forms of pimping:

- Article 1: Punishment for any person who “procures, entices, or leads away, for purposes of prostitution, another person”, or “exploits the prostitution of another person”, even with the consent of that person.
- Article 2: Punishment for any person who “keeps or manages, or knowingly finances or takes part in the financing of a brothel” and “knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others”.
- Article 6: “Each Party to the present Convention agrees to take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification.”

The **1979 Convention**, Article 6 states: “States parties shall take all appropriate measures, including legislation, to **suppress all forms of traffic in women and exploitation of prostitution of women.**”

While the above elements are particularly relevant in this case, in drafting this submission Ruhama also considered the following:

- **1989 Convention on the Rights of the Child**

Article 34: “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse”.

Article 35: “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”

- **1992 CEDAW General Recommendation No. 19 on Violence against Women**

Comment on article 6 of the CEDAW Convention:

“Poverty and unemployment force many women, including young girls, into prostitution. Prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence.”

- **1994 Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children**

Violence against women and girl children (43-63)

“Violence against women and girl children is a global phenomenon which cuts across geographical, cultural and political boundaries and varies only in its manifestations and severity. Gender violence has existed from time immemorial and continues up to the present day. It takes covert and overt forms including physical and mental abuse. Violence against women, including female genital mutilation, wife-burning, dowry-related violence, rape, incest, wife battering, female foeticide and female infanticide, trafficking and prostitution, is a human rights violation and not only a moral issue. It has serious negative implications on the economic and social development of women and society, and is an **expression of the societal gender subordination of women.**”

- **2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (The Palermo Protocol)**

Article 9:

“States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.”

“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.”

- **2006 Report of Sigma Huda, UN Special Rapporteur on Trafficking in Persons, Especially Women and Children: “Integration of the Human Rights of Women and a Gender Perspective with a Special Focus on the Demand for Commercial Sexual Exploitation and Trafficking”**

“For the most part, prostitution as actually practised in the world usually does satisfy the elements of trafficking. It is rare that one finds a case in which the path to prostitution and/or a person’s experiences within prostitution do not involve, at the very least, an abuse of power and/or an abuse of vulnerability. Power and vulnerability in this context must be understood to include power disparities based on gender, race, ethnicity and poverty. Put simply, **the road to prostitution and life within “the life” is rarely one marked by empowerment or adequate options.**”

“Thus, State parties with legalized prostitution industries have a heavy responsibility to ensure that the conditions which actually pertain to the practice of prostitution within their borders are free from the illicit means delineated in subparagraph (a) of the Protocol definition, so as to ensure that their legalized prostitution regimes are not simply perpetuating widespread and systematic trafficking. **As current conditions throughout the world attest, States parties that maintain legalized prostitution are far from satisfying this obligation.**”

“**Demand** must be understood expansively, as any act that fosters any form of exploitation that, in turn, leads to trafficking.”

“While the human rights of women and children are violated in many forms of trafficking, sex trafficking is a particular form of trafficking in which the human rights of women and children are violated as women and children.”

“Unlike the purchaser of consumer goods produced through trafficked labour, **the prostitute-user is simultaneously both the demand-creator and (by virtue of his receipt of the trafficked person) part of the trafficking chain.**”

“The demand for commercial sex is often further grounded in social power disparities of race, nationality, caste and colour.”

“As a normative matter, it is clear that **responsibility for the sex-trafficking market lies with prostitute-users, traffickers, and the economic, social, legal, political, institutional and cultural conditions which oppress women and children throughout the world.** It would be a grave injustice to impute responsibility for driving the sex market to its victims themselves. Such a claim is tantamount to victim blaming, and constitutes a further violation of the human rights of trafficking victims.”

3. Selected texts of the European Institutions

As a coalition of partner organisations working together for a Europe free from prostitution, we would highlight to the respected Committee members the following selected texts from the European Institutions, setting out the harms of prostitution and trafficking for sexual exploitation, and their findings as to best models for prevention, prosecution, protection, and the policies that can realise these impacts to ensure the future wellbeing and safety of women and girls.

- **European Parliament Report of 17 January 2006 on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation**

“Whereas **one of the principal preconditions for international trafficking in women and children is the existence of local prostitution markets** where certain people can and wish to sell and buy women and children for the purpose of exploiting them sexually; whereas traffickers in human beings mainly send women and children from countries in the south to countries in the north and from east to west, where demand from purchasers is strongest”
“Regrets the lack of any analysis of the demand for prostitution in the Member States as a possible motivation for the phenomenon of trafficking; considers that the Commission should carry out a comprehensive study on the impact of the Member States’ legislation on prostitution on the number of victims of trafficking”.

- **European Parliament resolution of 26 November 2009 on the elimination of violence against women**

“Whereas **the tolerance of prostitution in Europe leads to an increase in trafficking of women into Europe for sexual purposes, and to sex tourism**”

- **European Parliament resolution of 26 February 2014 on Prostitution, sexual exploitation and their impact on gender equality**

“Recognises that prostitution, forced prostitution and sexual exploitation are highly gendered issues **and violations of human dignity**, contrary to human rights principles, among which gender equality, and therefore **contrary to the principles of the Charter of Fundamental Rights of the European Union, including the goal and the principle of gender equality**”.

“Stresses that **there are several links between prostitution and trafficking**, and recognises that **prostitution – both globally and across Europe – feeds the trafficking of vulnerable women and under-age females**, a large percentage of whom are between 13-25 years old; stresses that, as shown by data from the Commission, a majority of victims (62 %) are trafficked for sexual exploitation, with women and under-age females accounting for 96 % of identified and presumed victims, with the percentage of victims from non-EU countries showing an increase in the past few years”.

“**One way of combating the trafficking of women and under-age females for sexual exploitation and improving gender equality is the model implemented in Sweden, Iceland and Norway (the so-called Nordic model), and currently under consideration in several European countries, where the purchase of sexual services constitutes the criminal act, not the services of the prostituted persons**”.

- **2014 Council of Europe Parliamentary Assembly resolution of 8 April 2014 on Prostitution, trafficking and modern slavery in Europe**

The Assembly calls on Council of Europe member and observer States, Parliamentary Assembly observer States and partners for democracy, to:

As regards policies on prostitution:

- **consider criminalising the purchase of sexual services, based on the Swedish model, as the most effective tool for preventing and combating trafficking in human beings;**
- ban the advertising of sexual services, including forms of disguised advertising;
- criminalise pimping, if they have not already done so;
- establish counselling centres providing prostitutes with legal and health assistance, irrespective of their legal or migrant status;
- **set up “exit programmes”** for those who wish to give up prostitution, aimed at rehabilitation and based on a holistic approach including mental health and health-care services, housing support, education and training and employment services;

As regards awareness raising, information and training:

- increase awareness through the media and school education, particularly among children and young people, with regard to **respectful, gender-equal and violence-free sexuality**;

- **raise awareness of the link between prostitution and human trafficking** by means of information campaigns targeting the general public, civil society and education institutions.
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Once again we thank the Committee for this opportunity to give feedback on the Concept Note and proposed General Recommendation to elaborate on Article 6 of the 1979 Convention and the commitment of the Committee to provide State parties with further comprehensive guidance in potential remedies and responses to end the impunity of those who exploit and oppress women and girls. We remain open to further consultation on this submission.

Thank you in advance for your consideration of our input.

Signed by,

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