**Half-day general discussion**

**of the Committee on the Elimination of Discrimination against Women**

**on trafficking in women and girls in the context of global migration**

***Oral intervention of the Advisor on Migration of the Office of the High Commissioner for Human Rights***

*Trafficking of women and girls in the context of migration*

The New York Declaration for Refugees and Migrants and the Global Compact for Safe, Orderly and Regular Migration have recognised how migrants, including women and girls, may be in situations of vulnerability due to the circumstances in which they travel, or the conditions they face in countries of origin, transit and destination. This is particularly true for the many migrants who are compelled to move irregularly and must rely on the services of ‘facilitators’ for assistance with travel, housing, employment and other matters, which leaves them disproportionately vulnerable to violence, abuse and exploitation.[[1]](#footnote-1)

*Distinguishing trafficking in persons from smuggling of migrants*

Migrating irregularly can increase the risk for migrants of falling prey to traffickers. While trafficking in persons always constitutes a human rights violation, migrant smuggling, as seen through a human rights lens, does not in itself constitute a violation. Sometimes smugglers can provide the only way for migrants to escape desperate situations.[[2]](#footnote-2)

At the same time, migrants who have turned to smugglers often have little other choice in how they move and, in that unequal power relationship, particularly smuggled migrant women are at risk of abuse and exploitation, including being forced into situations of trafficking.

When addressing trafficking in persons in the context of migration, it is essential to understand how migration governance measures affect migrant women, men, girls and boys differently and what measures are required to effectively protect the human rights of the individuals, rather than increasing the risks they may face.

*Human rights-based and gender-responsive migration governance*

The criminalization of irregular migration; the militarization and securitization of border governance measures focusing on prevention of irregular migration; and law enforcement approaches to counter smuggling and trafficking, force migrants to find other, often less safe, ways to reach their destination and further push migrants and trafficked persons into the shadows.

Restrictive migration policies, such as bans on migrant workers to travel to certain countries, or prohibitions on migrant women under a certain age to migrate for the purposes of protecting them from abuse and trafficking, have proven unsuccessful as they create an additional pathway into irregular status, making women and girls more vulnerable.[[3]](#footnote-3)

Structural gender discrimination and gender stereotyping is often reproduced in migration policies, with less safe, affordable and accessible regular migration pathways available for women and girls. Migrant labour markets are also highly gendered, with women more likely to work in informal care sectors, which are less protected by domestic labour laws and with less opportunities to gain legal status and family reunification.[[4]](#footnote-4)

Trafficked women and girls are sometimes unable to obtain a legal status to remain in the country of transit or destination, and are forced to return to a situation where they risk being trafficked again. Due to this fear of deportation, many victims of trafficking avoid seeking protection and assistance. It is therefore crucial to establish mechanisms to adequately identify vulnerabilities and protection needs and ensure referrals that are gender sensitive.

*Human rights protection of migrants in vulnerable situations*

Member States have committed to prevent, combat and eradicate trafficking in persons in the context of international migration.[[5]](#footnote-5) They have also committed to assist and protect the human rights of migrants in vulnerable situations, which includes victims of trafficking.[[6]](#footnote-6)

The Office of the High Commissioner for Human Rights considers it essential in this regard, to ensure that anti-trafficking responses in the context of migration are accompanied by human rights-based and gender-responsive migration governance measures, if they are to be effective. In particular, they should examine those circumstances and conditions, which place migrant women and girls in vulnerable situations and at risk of trafficking. This should not mean, that migrant women and girls are inherently vulnerable, but rather that the views, experiences and human rights of migrant women and girls should be at the centre of any measures to prevent trafficking, protect victims of trafficking and make migration safe for all. In this regard, OHCHR would like to draw to the Committee’s attention the OHCHR/GMG *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations*,[[7]](#footnote-7) and the OHCHR *Recommended Principles and Guidelines on Human Rights at International Borders*,[[8]](#footnote-8) which draw on the guidance of the treaty bodies, including CEDAW, on how to ensure human rights-based and gender-responsive migration governance.

1. OHCHR, Situation of Migrants in Transit, para 55. [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. OHCHR, Behind Closed Doors: Protecting and promoting the human rights of migrant domestic workers in an irregular situation, p 6. [↑](#footnote-ref-3)
4. UN Women, 2017. *Women Working Worldwide: A Situational Analysis of Women Migrant Workers.* UN Women; CEDAW/C/2009/WP.1/R, para.19. [↑](#footnote-ref-4)
5. Global Compact for Migration, Objective 10. [↑](#footnote-ref-5)
6. Global Compact for Migration, Objective 7. [↑](#footnote-ref-6)
7. <https://www.ohchr.org/EN/Issues/Migration/Pages/VulnerableSituations.aspx>. [↑](#footnote-ref-7)
8. <https://www.ohchr.org/EN/Issues/Migration/Pages/InternationalBorders.aspx>. [↑](#footnote-ref-8)