



**UNIFEM's comments on the Proposal for a
Directive of the European Parliament and of the Council
on Preventing and Combating Trafficking in Human Beings and Protecting Victims**

The United Nations Development Fund for Women (UNIFEM) values the efforts, shares the commitment of EU Member States to Prevent and Combat Trafficking in Human Beings and Protect Victims and welcomes the Proposal for a Directive of the European Parliament and of the Council on the same. The proposal seeks to robustly address trafficking through a comprehensive approach that includes: prevention, protection, prosecution and monitoring. Further the proposal aims to achieve policy consistency among EU member states in their struggle against trafficking and victim protection.

As an organization mandated to facilitate the implementation of commitments to gender equality and women's empowerment at international, regional, national levels and in the work of the UN system, UNIFEM will primarily comment on the gender equality and women's empowerment dimensions of the proposal.

1. Invoke CEDAW, its relevant General Recommendations and the Committee's Concluding Observations

The proposal is consistent with and builds on international and regional human rights instruments to combat trafficking such as the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children 2000, the 2005 Council of Europe Convention on Action against Trafficking in human beings, and others, adding value to these agreements. **UNIFEM suggests that the proposal also invoke the Convention on the Elimination of all Forms of Discrimination against Women, 1979 for its comprehensive definition of discrimination against women and the CEDAW definition of State obligation; CEDAW General recommendation 19 on Gender-based violence and CEDAW General Recommendation 27 on Women Migrants. The CEDAW definitions of discrimination and gender based violence comprehensively define and provide a framework to address the often disproportionate discrimination and violence against trafficked and migrant women. The CEDAW definition of state obligation obliges States Parties to promote, protect and fulfill women's human rights, but it also obliges State parties to ensure that non-state actors do the same, with accountability provisions for erring or non-performing parties.**

2. Link Migration and Trafficking in policy, legal and program initiatives

Trafficking largely occurs within the process of migration by manipulating legal migration channels and the vulnerability of persons concerned. **CEDAW General Recommendation 27 on Women Migrants highlights measures to be adopted to promote and protect the rights of migrant women**

throughout the migration process, and thus has a bearing on prevention of trafficking. More specifically: non-legal preventive measures – eg community awareness raising on the costs and benefits of migration (different for men and women and perhaps more discriminatory to them) linked to awareness raising on the ploys of traffickers and impact of trafficking; information dissemination on how to use legal channels for migration, can be part of trafficking legislation.

3. **Need for the Union to develop a Migration policy that is framed by gender equality and women's empowerment perspectives.**

Given the links between migration and trafficking, the difference between the phenomena notwithstanding, **there is need for the EU to develop a migration policy, that ensures at all stages, the efficient management of migration flows, fair treatment of third country nationals residing legally in Member States, prevention of undocumented migration and trafficking in human beings, especially women and children, and protection of the human rights of undocumented migrants and trafficked persons.** Here too, we need to make the links between provisions in migration legislation that have a bearing on trafficking. Eg imposition of country –age- occupation specific bans on women's migration, tend to increase trafficking in women and girls; the legal provision in migration legislation for mandatory pre departure training programs that are gender sensitive and rights based (in that this training enhances women's consciousness of their rights and entitlements, specific hazards of women-specific jobs and how to access assistance), could prevent trafficking. Further the definition of irregular recruitment in migration legislation as the violation of migrant worker's rights and the inclusion of trafficking in migration legislation as an exacerbated circumstance and serious form of irregular migration meriting serious penalties, could promote safer conditions for migrants and reduce trafficking.

4. **Need for gender sensitive provisions in the proposal for the directive, including provisions for gender sensitivity training/conscious raising for policy makers, state and non state service providers, law enforcers, the public at large**

Most provisions in the proposal are of a generic nature, addressing the male and female experience of trafficking in the same way. But men and women, boys and girls experience trafficking differently. Women and girls tend to suffer a disproportionately heavier impact. This is mediated by an interface of economic, nationality, ethnic marginalization that interacts with discriminatory gender role and trait stereotypes.

UNIFEM calls on gender equality and women's empowerment perspectives to be incorporated in the formulation and implementation of legislation/programs by the fore-mentioned stakeholders and for gender sensitive training to be institutionalized for these stakeholders. Some concrete examples of suggestions to render provisions, their implementation and training more gender responsive are:

-In awareness raising activities on the costs and benefits of migration, the ploys of traffickers and harms of trafficking, highlight the differences in the costs, benefits and harms to males and females; and the gendered vulnerabilities that traffickers look for –eg poor, good looking, abused, hapless, women and girls lacking support systems.

-In promoting the use of legal channels if migration, eliminate bans of various types on women's migration, as this exacerbates trafficking; reduce costs, simplify procedures, make sites and times to process documentation more woman-friendly . This would particularly benefit women as they are economically worse off than men and their relegation to the domestic space where they are burdened by multiple roles, makes tedious procedures at distant sites and inconvenient times especially difficult for women to comply with.

-Ensure that information dissemination, awareness raising is done in a language that women are familiar with, at times that are convenient to women, in sites where women tend to be and through media forms that women predominantly use.

-When talking to trafficked women, care must be taken to ensure that this is done by women police to avoid abuse.

-Ensure that an equal number of gender aware women or persons with gender equality and women's empowerment expertise on migration and trafficking, are represented on decision-making bodies.

-Ensure that gender equality and women's empowerment expertise on migration and trafficking is a criteria for the selection of Rapporteurs, so that monitoring strongly addresses the gender dimensions.

-Ensure that the voices of migrant and trafficked women inform policy formulation and implementation.

5. **Need to Strengthen non legal Preventive Measures, especially Economic Rights and Security**

Preventive measures in the proposal focus on training, awareness raising, education, criminal sanctions as a deterrent. **While this is critical, UNIFEM believes that the proposal needs to focus much more than it currently does on promoting and protecting the economic rights and security, especially of women and girls - the acute erosion of which is a driver of forced migration of women and girls and renders them vulnerable to trafficking. It is here that the proposal has the opportunity to address the issue of policy coherence. In addition to developing gender sensitive migration and trafficking policy, legislation and programs, the proposal also needs to include provisions to assess macro economic and trade policies, and discriminatory labour laws from a gender perspective, advocate for reform and their implementation. For there is an avalanche of research that suggests that the fore-mentioned policies often disempower women, pushing them to migrate or be vulnerable to trafficking. Further, UNIFEM encourages the proposal to also call for economic initiatives to be gender and market responsive, because small scale, unsustainable initiatives that reinforce traditional gender stereotypes once more render women and girls susceptible to forced migration and trafficking.**

6. **Opportunity to pay greater attention to the demand dimensions of trafficking**

UNIFEM encourages the inclusion of provisions related to **gender sensitive education curricula, that promotes gender equality and women's empowerment in all spheres of life. This is a long term measure that contributes to mindset and behavior change, reducing the demand for services of any kind from trafficked persons. Further, UNIFEM encourages provisions in the proposal that promote robust consciousness raising among men and boys to work as partners with women and**

girls to end discrimination and violence against them, and against all human beings. This contributes to addressing the mindset and behavioural aspects generating demand.

Another opportunity that the proposal has, to more robustly address the demand dimensions of trafficking is to align migration and trafficking policy/legislation (both in their formulation and implementation) better especially in countries of employment/destination sites. In this regard, UNIFEM welcomes gender sensitive labour legislation that promotes the economic and social rights of migrants in countries of employment. The extent to which this happens, has a bearing on trafficking.

7. **Substantive Criminal Law: Non Application of Penalties to Victims of Trafficking**

UNIFEM welcomes the clause not to penalize victims of trafficking who may have been forced to act contrary to the law. This provision, however, refers to the “possibility of not prosecuting or imposing penalties”. **UNIFEM encourages provision for mandatory non-prosecution and non-application of penalties to victims for their involvement in criminal activities they have been forced to engage in.**