**UN Committee on the Elimination of All Forms of Discrimination against Women  
General discussion on trafficking in women and girls in the context of global migration**

**Oral Intervention**

**Professor Siobhán Mullally**, Director of the Irish Centre for Human Rights, School of Law, National University of Ireland, Galway. Former President of the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) 2016-2018, first Vice-President 2014-2016, member 2012-2018. Email: [Siobhan.mullally@nuigalway.ie](mailto:Siobhan.mullally@nuigalway.ie)

1. A human rights based approach to combating trafficking in women and girls is critical to ensuring that the rights of survivors are effectively respected and fulfilled by States, and that women and girls’ empowerment and gender equality are central to all anti-trafficking measures adopted.
2. The right to non-discrimination on grounds of gender and to equal protection of the law and equality before the law must be ensured in all measures adopted by States to combat human trafficking. Gender equality means not only non-discrimination but also positive measures to achieve equality, and to recognise the intersections of multiple and intersecting axes of discrimination on grounds including race, religion, disability, political opinion, age, nationality, migration status, birth or social origin, gender and family status.
3. The participation of the most affected persons shall be recognised as a core principle in human rights based approaches: Survivors of human trafficking, including girls, should participate in the design, planning, implementation and review of all anti-trafficking measures.
4. Prevention measures must be practical and effective, as noted by the European Court of Human Rights in *Rantsev v Cyprus and Russia* (para. 284).
5. Effective measures to promote gender equality, including temporary special measures as required by Article 4 CEDAW and the elimination of harmful traditional practices as required by Article 5 CEDAW and General Recommendation no.31, are critical to effective prevention of trafficking of women and girls.[[1]](#footnote-1)
6. School and education curricula play an important role in informing girls and young women about the risks of human trafficking and assistance measures and programmes available. Education curricula should include age-appropriate information about all forms of human trafficking, and human rights of women and girls.
7. Gender stereotyping perpetuates direct and indirect discrimination against women and girls, and heightens risk. In accordance with Article 5 and 10 (c) of CEDAW, gender stereotyping of women and girls should be eliminated in education curricula, supporting women and girls empowerment as a preventive measure in the fight against human trafficking.
8. Expanding and enabling safe and legal routes to migration, including through family reunification, expanded resettlement programmes, humanitarian visas, and expanded routes to safe and regular labour migration, reduces vulnerability to human trafficking.
9. Consular and Embassy officials play a critical role in ensuring that visa and work permit applicants have access to information about the risks and prevalence of all forms of trafficking in human beings, and in providing information about assistance to possible victims. Targeted awareness raising initiatives in consular and embassy mission offices may be effective prevention measures.
10. Reducing risks and vulnerability to human trafficking for the purpose of labour exploitation requires that migrant workers have the right to change employers, independent residence status, and access to social security and public health care services.
11. Labour inspectors play a key role in preventing trafficking for the purpose of labour exploitation. The mandate of labour inspectors should be comprehensive to include all sectors, including those at particular risk such as agriculture sectors and domestic households, where migrant women and girls may be isolated and at risk of exploitation. This requires revising all legislative and policy measures that limit the mandate and scope of labour inspectorate functions.
12. Labour inspection services and other services responsible for the implementation of labour legislation and legislation relating to human trafficking should be strengthened, ensuring sufficient numbers and capacity of labour inspectors to carry out regular and unannounced inspections including in remote agricultural regions and domestic households.
13. Monitoring and regulation of recruitment agencies and other intermediaries is essential to protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process, and preventing trafficking for the purpose of labour exploitation.

**Child victims of trafficking in the context of global migration**

1. The best interests of the child should be ensured in all measures adopted to prevent trafficking and to ensure effective protection of child victims.
2. Effective protection requires child specific identification and referral measures, and competent staff trained in child protection. Timely appointment of guardians *ad litem* and referral of children to specialised and safe accommodation are essential.
3. Children in minority communities, or internally displaced, refugee or stateless children, may be particularly vulnerable to trafficking. Targeted prevention measures are essential to ensure effective protection, including through working with youth and cultural mediators and all child protection professionals, and other frontline actors working with children. Targeted social, economic and other initiatives should include specific support for children in street situations, and children living in residential institutions, at risk of going missing or being exploited in begging and forced criminality in particular.
4. Age assessment plays a key role in ensuring that children are identified as such, and provided with all necessary child protection measures. Age assessment procedures should comply with General Comment no.6 of the UN Committee on the Rights of the Child (2005) *Treatment of Unaccompanied and Separated Children Outside their Country of Origin.* In cases of doubt relating to age, the presumption of childhood should be applied and the benefit of the doubt given to the child.
5. All professionals working with child victims of trafficking or potential victims should be trained to recognise and respond appropriately to the individual needs and the best interests of the child.

**Role of civil society**

1. Civil society can play a key role in the identification of victims of trafficking, and in provision of assistance and protection. Coordination, planning and design of anti-trafficking measures should be based on strategic partnerships with and support for civil society. This must include financing and resourcing of NGOs and a supportive regulatory framework for their work, including in search and rescue activities at sea.

**International protection for trafficked persons**

1. In its 2006 Guidelines on International Protection, the UNHCR has recognised that “some victims or potential victims of trafficking may fall within the definition of a refugee contained in Article 1A(2) of the 1951 Convention and may therefore be entitled to international refugee protection”.[[2]](#footnote-2) Indeed, a claim for international protection submitted by a victim or potential victim of trafficking can arise in a number of circumstances: e.g. the victim may be trafficked abroad and seek the protection of the State where she or he now is, or the victim may be trafficked within national territory and flee abroad in search of international protection, or also the individual concerned may not have been trafficked but may fear becoming a victim of trafficking and may flee abroad in search of international protection. These circumstances are clearly exacerbated by current large movements of people across international borders. The acknowledgment that some victims of trafficking might be entitled to refugee status, combined with the principle of non-refoulement, Art. 14(1) of the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,[[3]](#footnote-3) requires that victims of trafficking are not only entitled to access protection schemes that are specific to victims of trafficking, but also not excluded from applying for and obtaining international protection.

**Women Peace and Security**

1. In the context of conflict and forced displacement, there are increased risks of trafficking for all forms of exploitation, including in particular sexual exploitation. Effective preventive measures, training and pro-active identification of potential victims are critical. Peace operations and humanitarian assistance must incorporate effective anti-trafficking measures, premised on a human rights based approach and respect for the principle of non-discrimination.

**Non-punishment of victims of trafficking**

1. Recognising that trafficking in human beings is a serious human rights violations, it is essential to ensure that victims of human trafficking are not subject to sanction, criminal or administrative, arising from their involvement in unlawful activities, to the extent that they were compelled to engage in such activities. Ensuring compliance with the non-punishment provisions requires legislation and other measures, including comprehensive guidance and training for police officers, prosecutors, immigration enforcement officers, and the judiciary, on the scope and purpose of the non-punishment provisions.

**Access to effective remedies including compensation**

1. The right to an effective remedy for victims of trafficking include both the substantive elements of an effective remedy and procedural safeguards (as provided in the UN OHCHR Draft Basic Principles on the right to an effective remedy for victims of trafficking).

1. UN Doc. CEDAW/C/GC/31/CRC/C/GC/18 [↑](#footnote-ref-1)
2. 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 [↑](#footnote-ref-2)
3. ‘Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime’ (first published 2000, United Nations Convention against Transnational Organized Crime, no date) vol 2237 UNTS 319 Art. 14(1). [↑](#footnote-ref-3)