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Globally, one in three victims of trafficking is a child. Yet, many child victims remain undetected and without protection. Prevention measures are weak and under-resourced in many states. Children with disabilities, indigenous children, children of minority communities, refugee, migrant, stateless and internally displaced children, may be at increased risk of trafficking. Discrimination, inequalities, conflict, and weak child protection mechanisms, contribute to failures of prevention, and of identification, assistance and protection of child victims. Ineffective investigations limit accountability for child trafficking, and as a consequence, limit access to justice for child victims.

States have a positive obligation under international law to protect children, to prevent trafficking of children and to assist and protect child victims, without discrimination. The Palermo Protocol defines a child as any person under the age of eighteen, and recognises that trafficking of a child does not require 'means'. The UN Convention on the Rights of the Child requires States to ensure non-discrimination and protection of the best interests of children, and to ensure the right to life, survival and development of all children, and respect for the views of the child. Yet, children and the rights of the child, continue to be invisible in national laws, policies and plans to combat trafficking in children. Globally, we are lacking the required urgency and political commitment to prioritise effective measures to prevent child trafficking and to protect all child victims and children at risk.

Despite the heightened protections of children's rights afforded by international law, there continues to be serious failures of prevention and protection of children by States and the international community, particularly of children at risk in situations of vulnerability, including in situations of poverty, conflict, migration and displacement, humanitarian and disaster settings, and as a consequence of climate change.

It is critical that the Working Group on Trafficking in Children, addresses the failure to effectively prevent trafficking of children, and brings forward recommendations to protect and ensure the rights of child victims and children at risk of trafficking. Urgent measures are needed to strengthen accountability for child trafficking, to combat impunity and to ensure access to justice for child victims and children at risk of trafficking, without discrimination.

As is stated in the Preamble to the UN Trafficking in Persons Protocol (the Palermo Protocol), a comprehensive international approach is required, "in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights". Although children are prioritised in the title of the Trafficking Protocol, we are continuing to fail in our

obligations to prevent child trafficking, one of the most egregious human rights violations of our time.

Recommendations to the Working Group on Trafficking in Persons

Child Labour and risks of child trafficking

- Urgent action is needed to address the heightened risk of trafficking of children for purposes of child labour in high-risk sectors, such as domestic households, agriculture, fisheries and forestry, mining, construction, tourism and hospitality. These sectors continue to be at high risk for child trafficking, because of weak regulation, limited enforcement of labour standards and weak resourcing of labour protection structures.
- To address the increased risks of exploitation, including trafficking of children in sectors such as agriculture, it is critical that measures are taken to ensure access to education for agricultural workers' children, by making education facilities available in the rural areas where parents work or by making the means available to travel to the nearest educational facility. Access to education should be ensured for children of migrant, temporary and seasonal workers.
- Recalling Article 32(1) of the UN Convention on the Rights of the Child, States must ensure the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
- Recalling SDGs and Targets, 8.7 and 16.2, ensure effective implementation of the ILO Minimum Age Convention, 1973 (No.138) and ILO Worst Forms of Child Labour Convention, 1999 (No.182), Strengthen measures to prevent trafficking of children in the agricultural sector, through enhanced capacity of child protection systems, poverty eradication measures, expanded free access to education and vocational training, and ensuring the participation of children in design and implementation of prevention and protection measures.

Trafficking of children in the context of migration

States should take all necessary measures to:

- Establish protective environments for refugee, stateless and migrant children who are victims or at risk of trafficking, including timely appointment of independent and qualified guardians, specialised assistance, best interests determination, and rights-based family reunification, access to education and health services without discrimination;
- Provide safe accommodation, and effective child protection systems for all migrant, refugee and stateless children, without discrimination;
- Strengthen child protection safeguards against risks of child trafficking and invest in protecting children against economic and social exploitation or work that is harmful or interferes with a child's development or education. In doing so, States must ensure that interventions include refugees, stateless children and migrants;
- Ensure that children are not subjected to accelerated asylum determination procedures, and are ensured effective access to asylum and other forms of international protection, recognising trafficking of children as child specific form of persecution and the rights of all children to protection;
- Ensure effective protection against refoulement for all child victims of trafficking and children at risk of trafficking, without discrimination;
- Ensure access to early legal assistance for all child victims of trafficking and access to justice and effective remedies through child friendly justice procedures;

- Provide residence permits to child victims of trafficking, when legally necessary, and ensure that the issuing of residence permits shall be in accordance with the best interests of the child and, where appropriate, renewed under the same conditions;
- Recognising the right of all children to a nationality, ensure that a pathway to citizenship is ensured for child victims of trafficking, where in the best interests of the child, without discrimination;
- Ensure that all child protection workers, teachers, health workers, border officials and Embassy and consular staff, and law enforcement authorities, are trained and qualified to identify, assist and protect child victims of trafficking and children at risk in the context of international migration;
- Ensure registration of all children on arrival in states or at ports of entry or disembarkation and referral for specialised assistance and protection, including where children are intercepted at sea;
- Recognizing the special obligations of assistance and protection arising under the Convention on the Rights of the Child, States must ensure the best interests of children seeking asylum, including the timely appointment of a guardian and legal representative for unaccompanied and separated children, provision of a protective environment on arrival, effective access to justice and non-discrimination in the provision of assistance and protection;
- Ensure that age assessments are human rights compliant, respecting the rights and best interests of all children without discrimination, and implementing a presumption of childhood in cases of doubt;
- Take measures to eliminate racial discrimination and damaging stereotypes that hinder the identification and protection of child victims and children at risk of trafficking.

Statelessness and Child Trafficking

- States must take all necessary measures to end statelessness and ensure effective protection of children's right to a nationality, without discrimination, including through ensuring universal registration of all children at birth.

Rights of Indigenous Children

- Recalling Article 17 of the UN Declaration on the Rights of Indigenous Peoples, and particular risks of exploitation in agricultural work, ensure that: "Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law; and [...] in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation [...]taking into account their special vulnerability and the importance of education for their empowerment".

Prevention of trafficking of children for purposes of child and forced marriage

To prevent trafficking of children for purposes of child marriage, States must:

- Ensure the access of girls to education and services, including information and services on sexual and reproductive health. – A/HRC/27/34;
- Ensure access to quality primary and secondary education for girls, without discrimination, including in situations of emergencies and displacement (A/HRC/35/5);
- Provide age-appropriate, culturally relevant, and empirically based comprehensive education on sexuality, sexual and reproductive health, and;
- Ensuring that children, especially girls, are aware of and have the capacity to claim and exercise their rights in relation to marriage, with legal assistance.(A/HRC/26/22).

Children and armed conflict

States must take all necessary measures to:

- Strengthen child protection systems in particular in conflict situations and post-conflict situations, including in the context of peacekeeping transitions and peacebuilding measures;
- Ensure protective environments for children and prioritize rehabilitation, specialized assistance and protection for child victims, including sexual and reproductive health care;
- Ensure that children detained for association with armed groups, including terrorist groups, are recognized as victims of grave violations of human rights and humanitarian law. Recovery, reintegration and family reunification of children, where in their best interests, should be prioritized, ensuring ongoing and effective child protection, and opportunities for access to education and training, and where relevant, rights of residence and stay and pathways to citizenship;
- Country-based task forces on monitoring and reporting established pursuant to Security Council resolution 1882 (2009) should ensure that all forms of human trafficking are expressly included in monitoring and reporting processes;
- All parties to a conflict must ensure that humanitarian access is maintained so as to ensure specialized assistance to and protection of child victims of trafficking, in order to enable timely identification and prevent re-trafficking of children;
- Recognizing the particular risk of trafficking of children in situations of conflict and violence, and recalling the Committee on the Rights of the Child general comment No. 6 (2005), ensure that the prevention of trafficking and the provision of assistance to and protection of child victims of trafficking are integrated into humanitarian and protection action, in particular for unaccompanied and separated children.

Accountability for child trafficking in conflicts

- Ensure that transitional justice processes include trafficking in children for all purposes of exploitation within the scope of truth recovery, reparations, memorialisation, justice and guarantees of non-recurrence;
- Provide training to build capacity through professional training to ensure consistent application of international humanitarian law, international criminal law and international human rights law to conflict related trafficking in children;
- Strengthen access to justice for trafficked children, through gender-sensitive, trauma informed and child-friendly justice procedures on the investigation and prosecution of conflict related trafficking crimes, and early access to legal assistance, including before the International Criminal Court and other international and hybrid courts and tribunals;
- Strengthen international cooperation and mutual legal assistance to ensure effective investigations, including through bilateral agreements and multilateral cooperation and the ratification and implementation of the Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and Other International Crimes;
- Recognizing the significant risks of reprisals against victims and witnesses in conflict situations, adopt the necessary measures to provide effective and appropriate protection to victims, witnesses and members of their families, when necessary (given that the families themselves are sometimes involved in the trafficking), in all investigations of trafficking in children;
- Provide a protective environment for all child victims of trafficking in conflict situations, without discrimination, to ensure the rights and best interests of the child, as required under the Convention on the Rights of the Child, including the child's right to access to justice;

- Strengthen capacity for effective investigations and international cooperation in relation to technology-facilitated trafficking, while respecting international law and ensuring the rights of child victims to assistance, protection and effective remedies;
- Provide training and specialized personnel to ensure capacity and skills to collect and handle electronic evidence and for the storage of digital evidence, complying with international human rights law and ensuring secure forms of electronic cooperation in international cooperation and joint investigations into child trafficking;
- States, peacekeeping operations and humanitarian actors should ensure the provision of protection services for trafficked persons in conflict and postconflict situations including legal aid;
- Businesses should: (a) Engage in heightened human rights due diligence that incorporates tools from atrocity prevention and conflict prevention to augment their existing due diligence frameworks, in order to prevent trafficking in persons for all purposes of exploitation and to ensure accountability and access to remedies for victims; (b) Actively participate in truth and reconciliation processes and provide reparations and guarantees of non-repetition as part of their commitment to building peace and ensuring accountability.

Jurisdiction for the crime of child trafficking

- To combat impunity, states should adopt legislation providing universal jurisdiction for crimes of trafficking in children.

Trafficking for purposes of sexual exploitation

- Urgent action is needed to build and strengthen multi-agency measures to prevent child trafficking, engaging all sectors, including health care settings, education, sports, and businesses, trade unions and civil society, faith-based organisations, child protection systems and social protection systems. It is critical that the laws, policies, and action plans, that exist on paper, are operationalised effectively and urgently, to eliminate trafficking of children for sexual exploitation.

Illegal adoption and illegal intercountry adoptions

- The Special Rapporteur recalls the recent Joint Statement of UN treaty bodies and Special Procedures addressing illegal intercountry adoptions and calls for urgent measures to prevent illegal intercountry adoptions.¹

Technology facilitated trafficking

- Urgent measures are required to strengthen investigations, including training, capacity building and resourcing of use of digital evidence, enhance mutual legal assistance and international cooperation, and prioritisation of prevention measures by internet service providers (ISPs) and tech companies. Access to justice for child victims remains difficult in the context of tech facilitated trafficking, due to delays and weaknesses in investigations, and prosecutions, and limited cooperation from some ISPs and Tech companies.

Due Diligence, Supply Chains and Business and Human Rights

- The Special Rapporteur highlights the importance, as recognised in the UN Guiding Principles on Business and Human Rights, of ensuring that human rights due diligence obligations

¹See: https://www.ohchr.org/sites/default/files/documents/hrbodies/ced/2022-09-29/JointstatementICA_HR_28September2022.pdf

encompass the entire value chain, both upstream and downstream. Globally, it is estimated that between 28 and 43 per cent of child labour in global supply chains occurs in the upstream segments. The Special Rapporteur highlights the urgency, therefore, of ensuring that human rights due diligence obligations are not limited to relationships with downstream suppliers.

Climate Change, Displacement, Disaster responses

- Recognizing the urgent claims of climate justice and intergenerational equity, States must ensure the protection of the rights and best interests of all children, without discrimination, in particular in the context of climate-related migration and displacement, and planned relocation, and ensure the participation of children and young people in the design and implementation of prevention and protection measures on climate change, on climate-related disaster responses and on trafficking of children;
- In order to acknowledge foreseeable harm and fulfil their obligation of due diligence, States must take action to prevent heightened risks of child trafficking, particularly in the context of climate-related displacement and migration. These obligations apply in the context of the slow and sudden-onset disasters, and increased risks of poverty and loss of livelihoods arising from climate change;
- The rights of the child and the participation of children and young people must be ensured in decision-making on all climate change policies.

Rights of Children with Disabilities

Children with disabilities, particularly in institutional settings may be particularly at risk of trafficking for all purposes of exploitation, including sexual exploitation, child labour, exploitation in begging or forced criminality. Such risks arise from discrimination, relationships of dependency, limited oversight or monitoring or of child protection.

- Effective measures are urgently needed to ensure that child protection measures specifically address the rights of children with disabilities to be protected against trafficking and that all anti trafficking measures are disability inclusive, and ensure the rights of children with disabilities, including access to justice.

Situations of risk and humanitarian settings

- The Special Rapporteur highlights that to prevent trafficking in children and protect victims of trafficking, in situations of risk and humanitarian emergencies, States must ensure effective access to asylum and other forms of international protection, expanded resettlement opportunities, humanitarian visas and family reunification, without discrimination States must cooperate to ensure an expansion of planned relocation opportunities, without discrimination and fully respecting the rights of children, ensuring the prevention of trafficking in children in all actions to achieve realization of Sustainable Development Goal target 10.7;
- The Special Rapporteur highlights that States, both individually and in cooperation, must adopt human rights-based migration policies to respond to the protection needs of children displaced owing to climate related disasters and humanitarian emergencies. These policies should include the creation and expansion of human rights-based and humanitarian avenues for entry and stay for children displaced, in full recognition of the principle of non-discrimination in international human rights law, as provided for, in particular, under the UN Convention on the Rights of the Child.

Internal Displacement

- Comprehensive measures are required to protect the rights of internally displaced children, mainstreaming prevention of child trafficking in child protection measures, ensuring access to education, safe accommodation, and protective environments.

Implementation of the non-punishment principle

Recalling the Special Rapporteur's Report on the Implementation of the Non-Punishment Principle:

- States must ensure that a child victim is not punished for unlawful acts that are related to their being trafficked. Where the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she must be presumed to be a child and be accorded special protection measures pending the verification of his or her age. Once the relation between the offence committed and a child's status as presumed or identified trafficking victim is established, that relation must be accepted as necessary and sufficient grounds to discontinue the proceedings or to expunge an already issued conviction, as well as to immediately release the child from detention facilities. With respect to children, given that no means are required in order to establish their status as victims of trafficking, no test of compulsion can be applied;
- Recognizing the importance of the non-punishment principle, particularly in relation to trafficking by armed groups, including designated terrorist groups, and trafficking for purposes of forced criminality, including in the context of migration, the Special Rapporteur reiterates recommendations from her report on the implementation of the non-punishment principle (A/HRC/47/34) and highlights the commitment A/76/263 21-10660 21/21 made in **objective 10 of the Global Compact for Safe, Orderly and Regular Migration to facilitate: access to justice and safe reporting without fear of detention, deportation or penalty, focusing on prevention, identification, appropriate protection and assistance, and addressing specific forms of abuse and exploitation.**

Repatriation of child victims of trafficking

Recognizing the positive obligations of States under international human rights law to identify and ensure the protection of child victims of trafficking, States should take immediate action to:

- Repatriate victims of trafficking and children of victims, ensuring the best interests of the child as a priority and a protective environment for children, including the provision of specialised, ongoing assistance, psychological and medical assistance, legal assistance, health care, including reproductive and sexual health, and access to education;
- Provide consular assistance to all child victims of trafficking without discrimination.

Background, context and Key Issues

Child Labour and risks of child trafficking

The preamble to the Durban Call to Action on the Elimination of Child Labour recalls that in the 2016–2020 period, child labour increased by 8.9 million, entirely among children aged 5–11. Agricultural work is a recognized entry point into child labour, accounting for 76.6 per cent of all child labour in the age group 5–11 years and for 75.8 per cent in the age group 12–14 years. The impact of the coronavirus disease (COVID-19) pandemic, limited access to social protection and lack of access to

education and decent work for families, combined with poverty and inequality, have all contributed to this increase and reversal of limited progress made.

In many states, exemptions or exceptions apply to the agricultural sector or to domestic work, allowing for child labour on farms and in domestic households, with significant risks that the exemptions create conditions within which trafficking of children for purposes of forced labour and related human rights violations occur.

The Special Rapporteur is concerned at the risks faced by children of seasonal, temporary and migrant workers, who are often unable to regularly attend school, lack access to child protection or social services, and are at increased risk of exploitation. The impact of the COVID-19 pandemic increased vulnerabilities of children to economic exploitation in the agriculture sector. In cocoa fields, the inability to access school, the quality of schooling and the cost of school fees and resources, combined with the need to gain livelihood training all make up the complex landscape of child labour in the cocoa sector. The cessation of the school feeding programs because of school closures, and the lack of access to affordable childcare, impacted on risks of trafficking of children.

The Special Rapporteur highlights the particular risks that may arise for unaccompanied or separated child refugees and migrants, who are often at risk of recruitment for agricultural work, and at heightened risk of trafficking for forced labour. Children in institutional settings, separated from families or care-givers, particularly in rural areas, may also be at heightened risk.

Trafficking of children in the context of migration

At the end of 2022, of the 108.4 million **forcibly displaced** people, an estimated 43.3 million (40 per cent) are **children** below 18 years of age. In December 2023, the Global Refugee Forum will take place. We must ensure that the urgency of ensuring protection of child refugees is a priority for the Forum, and that a commitment to the prevention of trafficking among asylum seeking, refugee and stateless children is supported by effective measures, ensuring access to asylum and other forms of international protection, expanding resettlement programmes and pathways to citizenship for children, ensuring rights based family reunification when in children's best interests.

It is important to recall the Objectives of the Global Compact on Safe, Orderly and Regular Migration, and the Global Compact on Refugees, as well as the UN Committee on the Rights of the Child General Comment no.6 (2005) *Treatment of unaccompanied and separated children outside their country of origin*.

Asylum seeking and refugee children, particularly those who are unaccompanied and separated from families and care givers are at high risk of trafficking. Yet they are frequently hosted in unsafe accommodation centres, hotels, or temporary lodgings, without guardians or protective environments. Child victims of trafficking may also be subject to detention in some states, in violation of the rights granted to children as in need of special protection under international law.

Statelessness and child trafficking

The Special Rapporteur notes the limited progress made in ending statelessness. She notes the increased risks of trafficking in children linked to the precarious legal status of children deprived of their right to a nationality, and the consequential violations resulting from limited access to civil documentation, education, and social protection and restrictions on freedom of movement. The heightened risk of trafficking of children is particularly urgent.

Trafficking of children in the context of child marriage

Globally, one in every five girls is formally married or in an informal union, before reaching the age of 18. Risks of trafficking for purposes of child marriage increased during the COVID-19 pandemic.

Trafficking for the purpose of child marriage is a significant risk in conflict and humanitarian settings, and may be a strategy used by armed groups, including designated terrorist groups, to boost recruitment and retain recruits.

Trafficking for purposes of child marriage is frequently linked to other forms of exploitation, including sexual exploitation, sexual slavery, and domestic servitude.

Trafficking of children in conflict situations

Trafficking by armed groups and terrorist groups may intersect with the recruitment and abduction of children and that attacks against schools and hospitals may be used as tactics to abduct or recruit children.

Trafficking of children for purposes of sexual exploitation occurs in all regions.

Technology plays a key role in recruitment and in the exploitation stages of child trafficking. Trafficking of children for purposes of sexual exploitation is closely linked to weaknesses in child protection systems, to poverty and systemic discrimination against children in indigenous communities, minorities, refugee, asylum seeking and migrant children, and children with disabilities. LGBT children and children of diverse gender identities may be at heightened risk.

Girls are more likely to be identified as victims, as stereotyping, discrimination and cultural taboos continue to limit the identification of boys as victims of trafficking for sexual exploitation, or at risk.

Sexual exploitation is often linked to other purposes of exploitation, including domestic servitude, child marriage, illegal adoptions and recruitment and use of children in conflict settings.

Illegal adoption and intercountry illegal adoptions

Trafficking of children for the purposes of illegal adoptions and illegal intercountry adoptions is a serious human rights violation. Risks of such illegal adoptions are increased in conflict and humanitarian settings, and in situations of generalised violence, where there is an absence of oversight and weaknesses in child protection systems. The Special Rapporteur recalls the recent Joint Statement of UN treaty bodies and Special Procedures addressing illegal intercountry adoptions and calls for urgent measures to prevent illegal intercountry adoptions.²

Technology facilitated trafficking of children

Technology facilitated child trafficking, though the use of social media, web cams, and linked to use of online gaming as mechanisms for recruitment, is prevalent and challenging for States and child protection actors.

Reporting on measures taken, outcomes and results, by ISPs and tech companies is critical and currently lacking. It is timely to recall the Committee on the Rights of the Child General Comment on the Rights of the Child in the Digital Environment, and to highlight the recommendations to State Parties on protecting children's rights to privacy, and to effective protection. Technology can be harnessed to strengthen prevention and protection measures, and to enhance investigations, including in conflict, displacement and humanitarian settings, with the necessary political will and effective due diligence from ISPs and tech companies.

²See: https://www.ohchr.org/sites/default/files/documents/hrbodies/ced/2022-09-29/JointstatementICA_HR_28September2022.pdf

Climate Change and Climate related disasters and displacement

In situations of risk, disasters, including climate related disasters, and humanitarian emergencies, trafficking in children, may increase. Children with disabilities may be at increased risk of trafficking in children, where disaster responses and humanitarian action, fail to ensure effective action to prevent trafficking in children and to ensure that prevention measures are inclusive of, and ensure the rights of all children with disabilities, without discrimination.

The increased risks of trafficking in children arising as a result of sudden-onset disasters, including climate-related disasters and resulting displacement, have been repeatedly acknowledged. United Nations entities have addressed trafficking in humanitarian responses to specific disasters, with examples including the response of the Office of the United Nations High Commissioner for Refugees to floods in Pakistan in 2010⁴ and International Organization for Migration initiatives implemented following Cyclone Aila in Bangladesh in 2009, Typhoon Haiyan in the Philippines in 2013, flooding and landslides in Myanmar in 2015 and Hurricane Matthew in Haiti in 2016.³ The obligations arising for States under international human rights law in the context of humanitarian emergencies, disasters and climate related disasters, include “procedural, substantive, and special obligations towards those in vulnerable situations.”⁴

In her 2022 Report to the UN General Assembly, *Addressing the gender dimensions of trafficking in persons in the context of climate change, displacement and disaster risk reduction*, the Special Rapporteur has stressed the necessity of recognizing the intersections of discrimination and exclusion that exacerbate the negative impact of disasters, including climate related disasters, and humanitarian emergencies. Specific groups experiencing both intersectional discrimination and heightened risks of trafficking in such contexts, include, children with disabilities, children in street situations, refugee children, indigenous children and unaccompanied and separated refugee and asylum seeking and migrant children.⁵

The Special Rapporteur has previously expressed concern that as a result of discrimination, harmful stereotypes and failures to ensure reasonable accommodation, children with disabilities, are at heightened risk of violence, including trafficking in children, during climate-related disasters and emergencies, especially in emergency shelters. Constraints imposed on decision-making and situations of dependency may limit mobility, including opportunities for migration, planned relocation or resettlement, and increase risks of harm and human rights violations, including trafficking in children.

The Special Rapporteur highlights and welcomes the agreed conclusions of the sixty-sixth session of the Commission on the Status of Women, in which the Commission urged governments at all levels, United Nations entities and other organizations to take actions to address trafficking in persons, which it stated might be exacerbated in contexts of climate change, environmental degradation and disasters ([E/CN.6/2022/L.7](#), para. 62 (mm)).

³ See: Report of the UN Special Rapporteur on trafficking in children, especially women and children, (2022) *Addressing the gender dimensions of trafficking in children in the context of climate change, displacement and disaster risk reduction*, A/77/170, at para.4

⁴ See: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/74/161), para. 63.

⁵ See: Report of the UN Special Rapporteur on trafficking in children, especially women and children, (2022) *Addressing the gender dimensions of trafficking in children in the context of climate change, displacement and disaster risk reduction*, A/77/170, para.33

The Special Rapporteur highlights the resolution of the Working Group on Children’s Rights and Climate Change of the African Committee of Experts on the Rights and Welfare of the Child, in which the Working Group calls upon States to, “incorporate a child-rights-based approach to climate action, ensuring that the specific risks faced by children are taken into account in the development and implementation of climate policies and programmes, paying particular attention to the needs of those children who are most vulnerable to the effects of climate change, such as girls, indigenous groups and children with disabilities”.⁶ The Special Rapporteur highlights the Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Children and Victims of Trafficking in Children, which set out the specific obligations of States towards children, including in the context of emergencies.

Rights of Children with Disabilities

Children with disabilities in institutional settings may be particularly at risk of trafficking for all purposes of exploitation, including sexual exploitation, child labour, exploitation in begging or forced criminality. Such risks arise from discrimination, relationships of dependency, limited oversight or monitoring or of child protection. Effective measures are urgently needed to ensure that child protection measures specifically address the rights of children with disabilities to be protected against trafficking.

In her 2021 Report to the UN General Assembly, the Special Rapporteur has specifically highlighted the obligation of States to ensure that measures to combat trafficking in children are disability-inclusive and comply with the Convention on the Rights of Children with Disabilities and with Security Council resolution 2475 (2019) on the protection of children with disabilities in situations of conflict, in order to ensure effective access to justice, assistance and protection, and effective remedies.⁷ As the Special Rapporteur has noted, and as highlighted by the Security Council, risks of trafficking in children are exacerbated in crisis situations, in particular in situations of conflict, and humanitarian emergencies.

Internally Displaced children

In situations of risk and humanitarian emergencies, displacement can lead to increased risks of trafficking in children. Limited attention is given to preventing trafficking or to ensuring effective access to assistance and protection of trafficked children in situations of internal displacement. The report of the High-level Panel on Internal Displacement specifically highlights the risks of child trafficking where children lose access to formal education and become “more vulnerable to recruitment by gangs or armed groups, ... trafficking and negative coping strategies.” The Platform on Disaster Displacement has highlighted the weaknesses of international legal provisions to protect displaced children in the context of disasters and the adverse effects of climate change (for example, on admission and conditions for return). These risks of exploitation, and serious human rights violations, may be increased for children with disabilities, where there are failures to implement the positive obligations arising under the Convention on the Rights of Persons with Disabilities.⁸

⁶ Resolution No. 18/2022 of the Working Group on Children’s Rights and Climate Change of the African Committee of Experts on the Rights and Welfare of the Child. Available at <https://www.acerwc.africa/wp-content/uploads/2022/04/Resolution-No-182022-on-Integrating-a-Child-Rights-Based-Approach-to-Climate-Change-Responses.pdf>.

⁷ Report of the Special Rapporteur on trafficking in children, especially women and children, *On the nexus between trafficking and terrorism*, (2021) A/76/263, at para.60

⁸ See Barry K, *Joint Submission from the Irish Centre for Human Rights and the Centre for Disability Law and Policy to the Draft General Comment on Children with Disabilities in Situations of Risk and Humanitarian*

Situations of Risk and Humanitarian Emergencies

The Special Rapporteur has highlighted the disproportionate impact of disasters and humanitarian emergencies on children with disabilities. Increased loss of livelihoods, and the consequent disruption to physical, social, economic and environmental networks and support systems, disproportionately affect children with disabilities and their families. Gender, and specifically gender inequality and discrimination, shape and determine the impact of humanitarian emergencies, conflicts and disasters, including climate related disasters.

The Special Rapporteur highlights the core provision of the Sendai Declaration and the Sendai Framework for Disaster Risk Reduction 2015–2030 on “building back better”. While the importance of integrating gender equality in the design and implementation of disaster preparedness and response policies is recognized, more action is needed to address the specific risks faced by children with disabilities, arising from disasters. The Special Rapporteur stresses the obligation of States to strengthen partnerships with civil society and disability rights advocates, in order to achieve the objective of participatory disaster risk governance and to meet their obligations concerning the prevention of trafficking in children for all purposes of exploitation.

Jurisdiction and application of human rights law

The Special Rapporteur highlights the obligations arising under the Convention on the Rights of the Child and its Optional Protocols with regard to effective control exercised by a State outside of its borders, including in international waters or other transit zones where States put in place migration control mechanisms, which must be applied with respect to children who come under the State’s jurisdiction, including while attempting to enter its territory.⁹

Non punishment of child victims of trafficking

Recognizing the importance of the non-punishment principle, particularly in relation to trafficking by armed groups, including designated terrorist groups, and trafficking for purposes of forced criminality, including in the context of migration, the Special Rapporteur reiterates recommendations from her report on the implementation of the non-punishment principle (A/HRC/47/34) and highlights the commitment A/76/263 21-10660 21/21 made in objective 10 of the Global Compact for Safe, Orderly and Regular Migration to facilitate: access to justice and safe reporting without fear of detention, deportation or penalty, focusing on prevention, identification, appropriate protection and assistance, and addressing specific forms of abuse and exploitation.

LGBT children and children of diverse gender identities

The Special Rapporteur highlights the specific risks of trafficking in children faced by lesbian, gay, bisexual and transgender children and children of diverse gender identities. Such risks may give rise to asylum claims and are linked specifically to discrimination, violence and stigmatization. Prevailing stereotypes, and discrimination in the provision of services by State and non-State actors, including law enforcement bodies, may increase the risks of children becoming victim to trafficking and may lead to protection failures. Risks of trafficking may also occur in countries of destination, where there

Emergencies (Article 11 of the Convention on the Rights of Children with Disabilities), available at: <https://www.universityofgalway.ie/irish-centre-human-rights/newsevents/joint-ichrcdlp-submission-to-the-general-discussion-on-article-11-of-the-crpd.html>

⁹Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / No. 22 (2017) of the Committee on the Rights of the Child, para. 12.

is criminalization of same-sex relationships or conduct or stigmatization of and violence against lesbian, gay, bisexual and transgender children and children of diverse gender identities.

Repatriation of child victims of trafficking

Recognizing the positive obligations of States under international human rights law to identify and ensure the protection of child victims of trafficking, States should take immediate action to:

- Repatriate victims of trafficking and children of victims, ensuring the best interests of the child as a priority and a protective environment for children;
- Provide consular assistance to all child victims of trafficking without discrimination.

Conclusion

Trafficking of children is a serious human rights violation and a serious crime. Trafficking in children is closely linked to the grave violations of international law against children in armed conflict, and may constitute a violation of international humanitarian law, international criminal law, and international refugee law. We have the laws and policies needed to effectively address child trafficking. We urgently need the political will, commitment, and resources to effective action to eliminate child trafficking for all purposes of exploitation.