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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Report of the Special Rapporteur on trafficking in persons, especially women and children**

### **Note by the Secretariat**

The Secretariat has the honour to transmit to the Human Rights Council the thematic report of the Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro, prepared pursuant to Council resolution 26/8. In her report the Special Rapporteur addresses the linkage between trafficking in persons and conflict, which she had identified in her previous report to the Council (A/HRC/29/38) as one of the areas of interest to and further research by her mandate. In the present report the Special Rapporteur raises international awareness on the forms and nature of trafficking related to the complex situation of conflict.

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## Report of the Special Rapporteur on trafficking in persons, especially women and children

### Contents

	<i>Page</i>
I. Introduction .....	3
II. Activities carried out by the Special Rapporteur.....	3
A. Participation in conferences and consultations .....	3
B. Country visits.....	3
III. Trafficking in persons in conflict and post-conflict situations: protecting victims of trafficking and people at risk of trafficking, especially women and children .....	4
A. Introduction .....	4
B. Context and identification of the problem .....	4
C. Trafficking of persons fleeing conflict .....	5
D. Trafficking during conflict.....	7
E. Trafficking in post-conflict situations.....	10
F. International legal framework.....	12
IV. Conclusion .....	16
V. Recommendations .....	17

## **I. Introduction**

1. In the present report, submitted pursuant to Human Rights Council resolution 26/8, the Special Rapporteur outlines her activities undertaken during the period under review and presents a thematic report on the subject of trafficking in persons in conflict and post-conflict situations: protecting victims of trafficking and people at risk of trafficking, especially women and children.

## **II. Activities carried out by the Special Rapporteur**

### **A. Participation in conferences and consultations**

2. On 11 April 2016, the Special Rapporteur took part in the sixteenth conference of the Alliance against Trafficking in Persons organized by the Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings of the Organization for Security and Cooperation in Europe, held in Vienna.

3. On 29 and 30 November 2015, the Special Rapporteur convened, in Amman, an expert group meeting on the impact of armed conflict on people's vulnerability to trafficking in persons, including sexual and labour exploitation.

4. On 16 November, she delivered opening remarks at the sixth session of the Working Group on Trafficking in Persons, established by the States parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, held in Vienna.

5. On 23 October, she presented her thematic report on due diligence and trafficking in persons (A/70/260) to the General Assembly at its seventieth session.

6. On 24 June, she took part in an event on the margins of the twenty-ninth session of the Human Rights Council in connection with a global call for action to prevent and respond to abuse and fraud in the recruitment of labour, including its relationship to trafficking in persons, organized by the United Nations Office on Drugs and Crime (UNODC) and the International Labour Organization (ILO).

### **B. Country visits**

7. The Special Rapporteur visited Jordan from 28 January to 4 February 2016, at the invitation of the Government. The report on the visit is contained in the addendum to the present report. She thanks the Government for its cooperation prior to and during the visit. She also wishes to thank the Governments of Cuba, Kuwait, Luxembourg, Madagascar, Nigeria, Switzerland and the United States of America for inviting her to visit their countries. She will visit Kuwait from 6 to 14 September 2016 and hopes to be able to honour the remaining invitations in 2016 and 2017 in the expectation that mutually convenient dates can be agreed promptly.

### **III. Trafficking in persons in conflict and post-conflict situations: protecting victims of trafficking and people at risk of trafficking, especially women and children**

#### **A. Introduction**

8. In her previous report to the Human Rights Council (A/HRC/29/38), the Special Rapporteur identified the linkage between human trafficking and conflict of interest to her mandate.

9. In the present report she intends to provide information on various ways in which trafficking in persons and conflict interact and intersect. She will first focus on the context and will aim to identify the problem by looking at cases that illustrate different trafficking trends. She will map the legal and policy framework with a view to identifying weaknesses and opportunities. Lastly, she offers recommendations to address trafficking in persons in conflict and post-conflict situations in collaboration with States, civil society and the international community.

#### **B. Context and identification of the problem**

10. Trafficking in persons violates human rights and continues to pose a serious challenge to humanity, including in conflict situations.

11. Conflict severely affects individuals, families, communities and nations on a global scale. In 2014, 41 active conflicts were identified, with the most acute in Africa, the Middle East and Asia.<sup>1</sup> In the same year, conflict and persecution forced a daily average of 42,500 individuals to leave their homes and seek protection, either within their own country or in other countries.<sup>2</sup> The number of persons displaced because of conflict and persecution in 2014 stood at an unprecedented 59.5 million, a 40 per cent increase in just three years.<sup>3</sup>

12. The features and patterns of modern-day conflict are linked to trafficking in persons, especially women and children. While there have been several large-scale conflicts between States in the past decade, the trend towards internal conflict continues to grow. Indeed, several international armed conflicts in recent times have morphed into complex internal conflicts and often spilled over to fuel internal crises in neighbouring States.

13. Conflict is accompanied by a breakdown in public institutions, violation of human rights, erosion of essential services, heightened tensions within and between communities that previously coexisted in relative peace, inequalities and impoverishment. Conflicts and the resulting increase in displacement affect an already strained international asylum/refugee system. Lack of access to safe and legal migration options forces many persons fleeing conflict to use the services of illegal facilitators, increasing their exposure to exploitation, including trafficking.

14. Human trafficking is an increasingly common feature of modern conflict, whether non-international or international. Existing vulnerabilities to trafficking, from gender-based violence to discrimination to lack of economic opportunity, are exacerbated before, during

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<sup>1</sup> International Institute for Strategic Studies, Armed Conflict Database, available from <https://acd.iiss.org/en/conflicts?tags=D6943ABDB5364229B5A0E3338AC94EA1>.

<sup>2</sup> Office of the United Nations High Commissioner for Refugees (UNHCR), *World at War – Global Trends: Forced Displacement in 2014* (Geneva, 2015).

<sup>3</sup> Ibid.

and after conflict. Furthermore, conflict tends to fuel impunity, the breakdown of law and order and the destruction of institutions and communities, which foster the conditions within which trafficking will flourish, often past the point at which hostilities cease.

15. In order to provide a description and to establish the nature and scope of the problem, the Special Rapporteur will consider trafficking in conflict from three perspectives: trafficking of persons fleeing conflict; trafficking during conflict; and trafficking in post-conflict situations.<sup>4</sup> In practice, overlapping between these aspects is common. However, it is possible to identify particular features or issues of trafficking associated with each to understand how different situations and vulnerabilities arise and how they can be addressed. Because of a dearth of information, the Special Rapporteur addresses the most common forms of trafficking in conflict and post-conflict situations.

### C. Trafficking of persons fleeing conflict

16. Individuals fleeing anticipated or actual conflict, or the aftermath of conflict, are vulnerable to trafficking. The pressure to move is often urgent and intense, leading people to take risks that would be unacceptable under normal circumstances. Conflict weakens State structures, removes protections and enables criminal networks to operate more freely, including across borders. Sometimes trafficking will occur within the conflict zone or in another part of the affected country to which the victims have been displaced. Increasingly, persons who have escaped conflict in another country as part of a larger, mixed migration process become victims of trafficking at some point in their journey or at their intended destination.

#### Trafficking of persons internally displaced by conflict

17. Internal displacement due to conflict and persecution affects almost 40 million people.<sup>5</sup> Most of the world's internally displaced persons live outside camps, in urban areas and with host communities, and remain invisible because they have not registered as internally displaced persons or wish to remain anonymous. These persons face greater risk of trafficking and exploitation.

18. Forced displacement can increase the risk of trafficking by weakening or destroying family support structures, community bonds and self-protection mechanisms that might otherwise serve as a buffer against human trafficking. Because internally displaced persons often lack documentation and have limited access to education, resources and self-reliance opportunities, they may be particularly vulnerable to traffickers who appear to offer life-saving access to employment and other opportunities. Internally displaced persons who fear for their lives and wish to seek protection abroad can also fall prey to traffickers who claim to offer a route to safety. Traffickers specifically target impoverished communities, including the internally displaced, in order to exploit their vulnerability. Poor and displaced families may entrust the care of their children to traffickers who promise to provide them with education or skills training, but ultimately exploit them for the purposes of prostitution, forced labour or irregular adoption.<sup>6</sup> Internally displaced women and girls are

<sup>4</sup> The division of conflict into these three stages has been used for the purposes of the present report, taking into consideration that in practice, not all conflicts can be so clearly divided and that overlapping may occur.

<sup>5</sup> UNHCR, *World at War*.

<sup>6</sup> UNHCR, Handbook for the Protection of Internally Displaced Persons, Action Sheet No.7, "Human trafficking" (n.d.).

often disproportionately affected by the loss of livelihoods during displacement (see A/HRC/23/44, para. 46).

19. Conflict-related violence, such as sexual violence, can itself be a driver of forced internal displacement, which in turn increases vulnerability to further exploitation, including through trafficking. For instance, sexual violence by armed groups has forced ethnic minority women and girls in remote rural areas away from their communities and placed them at greater risk of trafficking within the country as well as overseas.<sup>7</sup> Additionally, worsening security situations and overcrowded camps with inadequate basic services cause some internally displaced persons to risk crossing borders in an irregular manner in search of employment, putting themselves at high risk of exploitation because of their lack of legal status.<sup>8</sup> Military attacks on camps further worsens displacement and causes undocumented internally displaced persons, including women and unaccompanied children, to flee their camps, exposing them to the risk of being exploited or trafficked.<sup>9</sup>

### **Trafficking of refugees and asylum seekers fleeing conflict**

20. For the millions of people who are forced to flee their country because of armed conflict, the journey of escape has become increasingly expensive and hazardous, with a tangible risk of trafficking-related exploitation. Sometimes these dangers relate to the available paths of escape. Throughout their journey and at their destination, migrants, including refugees and asylum seekers, are highly vulnerable to physical violence, sexual assault, extortion and trafficking, as well as detention by national authorities.<sup>10</sup> The journey of female migrants and unaccompanied children travelling through the Horn of Africa is particularly hazardous. Thousands have disappeared, presumably abducted for purposes of exploitation.<sup>11</sup>

21. Refugees and asylum seekers are vulnerable to trafficking. Refugees fleeing the conflict in the Syrian Arab Republic through Lebanon and Turkey often become subject to trafficking-related exploitation, including child labour, forced prostitution, forced and early marriage and exploitation and begging.<sup>12</sup> Refugees and asylum seekers, including numerous unaccompanied children from the Sudan and Somalia, have been kidnapped or lured from refugee camps or while en route, sold on and subsequently held captive in Libya or the Sinai desert for purposes of exploitation through extortion.<sup>13</sup>

22. After fleeing conflict, children may be compelled to work to sustain themselves and/or to support their families. Unaccompanied children often have no choice but to work

<sup>7</sup> See S/2015/203, para. 20 and Luz Estella Nagel, “How conflict and displacement fuel human trafficking and abuse of vulnerable groups: the case of Colombia and opportunities for real action and innovative solutions”, *Groningen Journal of International Law*, vol. 1, No. 2 (2013). See also Sonja Wolte, “Armed conflict and trafficking in women” German Agency for Technical Cooperation, 2004, pp. 21-21.

<sup>8</sup> Kachin Women’s Association Thailand, “Pushed to the brink: conflict and human trafficking on the Kachin-China border”, June 2013.

<sup>9</sup> Ibid.

<sup>10</sup> Regional Mixed Migration Secretariat, *Abused and Abducted: The Plight of Female Migrants from the Horn of Africa in Yemen*, Mixed Migration Research Series, Study 7, October 2014.

<sup>11</sup> Ibid. See also Human Rights Watch, “Yemen’s torture camps: abuse of migrants by human traffickers in a climate of impunity”, May 2014.

<sup>12</sup> See, for example, United Nations Children’s Fund (UNICEF) and Save the Children, *Small Hands, Heavy Burden: How the Syria Conflict is Driving More Children into the Workforce* (Amman, 2015); Secours catholique-Caritas France and Olivier Peyroux, *Trafficking in Human Beings in Conflict and Post-Conflict Situations* (2015).

<sup>13</sup> UNHCR, *Smuggling and Trafficking from the East and Horn of Africa: Progress Report* (2013).

to meet their basic needs. Iraqi and Syrian refugee children in Lebanon, for example, work in textile factories, in construction, in the food service industry, in agricultural labour or as street vendors in conditions amounting to forced labour. There appear to be organized systems within refugee camps for making these work arrangements.<sup>14</sup> In May 2015, the Office of the United Nations High Commissioner for Refugees (UNHCR) reported that there were at least 1,500 children, 75 per cent of whom were Syrian, begging or working as street vendors in and around Beirut, working excessive hours to earn income for their families.<sup>15</sup> These child labour situations often mask other forms of exploitation, such as trafficking for forced labour and sexual exploitation, and have negative consequences on children's health and education.

23. Persons fleeing conflict could also be vulnerable to trafficking for purposes of organ removal. There was evidence that migrants fleeing conflict in the Sudan were being targeted for organ harvesting in Egypt. In addition, medical practitioners from post-conflict Kosovo<sup>16</sup> were found to be involved in the trafficking of victims from the Republic of Moldova, the Russian Federation and Turkey to Kosovo for the purpose of organ removal (see A/68/256, para. 29). Certainly, conflict and post-conflict situations provide fertile ground for increasing vulnerability to this form of trafficking and enables impunity for exploiters.

24. Moreover, increasingly restrictive and exclusionary immigration policies, including criminalization and detention of irregular migrants, insufficient channels for regular migration and family reunification and lack of regular access to the labour market for asylum seekers, refugees and migrants further contribute to an increase in the exploitation of migrants, including through trafficking. During the past decade in particular, restrictions on entry to preferred countries of asylum have become more onerous and appear directed towards thwarting the arrival of those who might claim asylum and refugee status. This forces migrants, including asylum seekers and refugees fleeing conflict, into the arms of those able to help them circumvent controls. For such migrants, the clandestine nature of their journey, the often unscrupulous and corrupt conduct of their facilitators and collaborators and the extent to which some States will go to prevent their departure, transit or arrival all operate to create or exacerbate opportunities for traffickers who prey on their precarious situation. For instance, Rohingya from Myanmar typically embark on maritime and overland journeys, often via Thailand, to irregularly reach Malaysia. Initially smuggled across borders, some are subsequently trafficked to fishing boats and palm oil plantations for labour exploitation, ending up in bonded labour to repay the debts incurred from the transport. Others are held captive and abused in Malaysia until ransom is paid by their relatives (see A/HRC/29/38/Add.1, para. 19).

#### **D. Trafficking during conflict**

25. Individuals and communities caught up in conflict are vulnerable to a range of human rights violations. Pre-existing conditions and vulnerabilities, such as structural gender-based and other forms of discrimination affecting women, children and non-citizens, are exacerbated during conflict as opportunities for exploitation increase and protections break down. Conflicts are prolonged by actors who take advantage of situations of lawlessness to reap personal gain through lucrative activities such as trafficking.<sup>17</sup> In this

<sup>14</sup> Secours catholique-Caritas France and Peyroux, "Trafficking in human beings", pp. 25-29.

<sup>15</sup> *Ibid.*, p. 27.

<sup>16</sup> All references to Kosovo in the present document should be understood to be in compliance with Security Council resolution 1244 (1999).

<sup>17</sup> Wolte, "Armed conflict and trafficking in women", p. 12.

section the Special Rapporteur will look into trafficking into military service and sexual and labour exploitation during conflict involving all persons, including boys, girls and migrants.

### Trafficking of children into military service

26. The United Nations Children's Fund (UNICEF) estimates that some 300,000 boys and girls under the age of 18 are involved in more than 30 conflicts worldwide.<sup>18</sup> Children can be trafficked into military service by government armed forces, paramilitary groups and rebel groups. Hostilities and widespread displacement, as well as a general lack of security, increases children's vulnerability to being trafficked by armed groups.<sup>19</sup>

27. Children trafficked for forced military service perform a variety of combatant and supportive roles. Many children, typically boys, are forcibly recruited or kidnapped for use by armed militias in ongoing conflicts.<sup>20</sup> Children are also used as suicide bombers and human shields.<sup>21</sup> Others are compelled to work as porters, cooks, guards and messengers or are forced to commit crimes, such as looting and physical and sexual violence. Boys and girls in these situations are often sexually abused and may also be forced to take drugs.<sup>22</sup>

28. While forcible recruitment of children often involves abduction or coercion, recruiters also appeal to notions of martyrdom or social and economic factors or employ trickery or indoctrination to enlist children. There are instances where the Internet, particularly social media, has been used by extremist groups to exploit the vulnerability of young educated children from middle class families in Western countries to recruit them using deception.<sup>23</sup> Moreover, children are especially vulnerable to being trafficked into military service if they are separated from their families, are displaced from their homes, live in combat areas or have limited access to education.<sup>24</sup>

29. It is estimated that 10-30 per cent of children in fighting forces are female.<sup>25</sup> Girls who are forcibly recruited or abducted into military service typically face forced domestic labour and sexual violence and exploitation such as forced marriage and/or sexual slavery (see paras. 31-34 below). It is important to acknowledge that while violence and exploitation are often defining aspects of the female experience of conflict, this is not always the case. Young women and girls have also been involved in trafficking by deceiving other girls and boys into joining armed conflict, using the Internet and social media.

30. Children who are forcibly recruited or otherwise compelled to join armed groups face physical and psychological consequences. Whether in a combat or supporting role,

<sup>18</sup> UNICEF Factsheet: Child soldiers. Available from <http://internalvoices.org/wp-content/uploads/2013/04/childsoldiers.pdf>.

<sup>19</sup> *Amnesty International Report 2014/15: The State of the World's Human Rights* (London, 2015); Child Soldiers International, "A dangerous refuge: ongoing child recruitment by the Kachin Independence Army", July 2015; United States Department of State, *Trafficking in Persons Report: July 2015*.

<sup>20</sup> Secours catholique-Caritas France and Peyroux, "Trafficking in human beings", p. 19.

<sup>21</sup> United States Department of State, *Trafficking in Persons Report*, pp. 64 and 190.

<sup>22</sup> Wolte, "Armed conflict and trafficking in women", p. 18.

<sup>23</sup> Ashley Binetti, "A new frontier: human trafficking and ISIS's recruitment of women from the West", Information2Action, Georgetown Institute for Women, Peace and Security (n.d.); Brigitte L. Nacos, "Young Western women, fandom, and ISIS", E-International Relations, 5 May 2015; Lisa Blaker, "The Islamic State's use of social media", *Military Cyber Affairs*, vol. 1, No. 1 (2015); Scott Gates and Sukanya Podder, "Social media, recruitment, allegiance and the Islamic State", *Perspectives on Terrorism*, vol. 9, No. 4 (2015), pp. 107-116.

<sup>24</sup> UNICEF Factsheet: Child soldiers.

<sup>25</sup> Child Soldiers International, "A dangerous refuge".

they are at risk of grave physical injuries as well as health consequences, such as sickness resulting from malnutrition or disease. Girls may be exposed to further health problems related to sexual violence, pregnancy and childbirth. Also significant is the impact on children's mental health related to post-traumatic stress disorder, anxiety, depression or other mental health issues.

### Trafficking of women and girls for sexual exploitation

31. Conflict-related sexual violence takes many forms. Women and girls seeking to survive in conflict zones are often compelled to exchange sexual services and even to "marry" for food, shelter, protection or safe passage.<sup>26</sup> UNHCR has affirmed that women in conflict situations are vulnerable to a range of discriminatory practices that exacerbate their dependence (for example, receiving smaller food rations or not having ration cards or other identity documents in their own name) and are disproportionately exposed to sexual violence.<sup>27</sup> For women and girls abducted into military service, sexual assault is often a feature of their experience. Rape has been used as a tactic of war to humiliate and weaken the morale of the enemy, ethnically cleanse the population, destabilize communities and force civilians to flee.<sup>28</sup> Widespread or systematic sexual assault by government and/or opposition or rebel forces has been documented in multiple modern conflicts, including successive annual reports of the Secretary-General on conflict and related sexual violence since 2009 in which he has identified incidents and patterns of sexual violence in conflict-affected countries employed by parties to armed conflict, primarily against women and girls but also against boys and men (see, for example, S/2015/203).

32. The trafficking of women and girls for sexual exploitation, including sexual slavery, forced marriage, forced prostitution and forced pregnancy, features within the broader picture of sexual violence perpetrated against the civilian population during and in the wake of conflicts. The nexus between trafficking in persons and sexual violence is further affirmed in a statement by the President of the Security Council (S/PRST/2015/25) in which the President underscored the urgency of efforts to deter, detect and disrupt trafficking in persons, including by terrorist and violent extremist groups. Recently, an egregious pattern of abductions from their homes or schools of women and girls who are subsequently forced to marry and/or serve as sex slaves has been reported in conflict-affected settings, though some forms of this phenomenon have also been a feature of armed conflicts in the past. Such exploitation, which in some cases involves trafficking for forced marriage and sexual enslavement by extremist groups such as Islamic State in Iraq and the Levant, Boko Haram and their affiliates, is believed to be a strategy to generate revenue as well as to recruit, reward and retain fighters.<sup>29</sup> In order to prevent such abductions, families

<sup>26</sup> See, generally, Wolte, "Armed conflict and trafficking in women".

<sup>27</sup> Elisabeth Rehn and Ellen Johnson Sirleaf, *Women, War, Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-Building* (New York, United Nations Development Fund for Women, 2002), p. 6.

<sup>28</sup> See Security Council resolutions 1820 (2008), 1888 (2009), 1960 (2010), 2106 (2013) and 2242 (2015). See also *Women2000 – Sexual Violence and Armed Conflict: United Nations Response*, April 1998.

<sup>29</sup> Secours catholique-Caritas France and Peyroux, "Trafficking in human beings", p. 19. See also the joint statement of the Special Rapporteur on the sale of children, child pornography and child prostitution; the Special Rapporteur on contemporary forms of slavery, including its causes and its consequences; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on their visit to Nigeria, available from [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16983&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16983&LangID=E). See also Security Council resolution 2242 (2015) in which the Council recognized that sexual violence was both a tactic of war and a tactic of terrorism.

are reported to be confining women and girls and removing girls from school (see S/2015/203, para. 61).

33. Trafficking for the purpose of sexual exploitation is perpetrated not only by organized criminals. For instance, Syrian refugee women and girls are trafficked for sexual exploitation through the practice of “temporary” or child and/or forced marriages. These girls and women are often forcibly married by their parents, who view such arrangements as a way of securing their daughters safety and ensuring the family’s livelihood through the bride price. Once married, such wives are likely to end up in a situation of sexual and domestic exploitation by a spouse whom they followed abroad (A/HRC/32/41/Add.1). Trafficking for forced prostitution through marriages with foreign men who then force their “brides” into prostitution in another country is also common.

34. Survivors of trafficking, sexual slavery and other forms of sexual violence perpetrated during periods of armed conflict rarely receive the assistance they need to reintegrate into society. Too often, survivors face discrimination and stigma from their families and wider community, which may make them vulnerable to being re trafficked, further stalling their rehabilitation and reintegration. Stigmatization as well as deficient judicial and legal systems typically impede access to justice for survivors. Access to justice is further impeded by discriminatory laws and regulations. Additionally, sexual and reproductive health services, trauma counselling and reintegration support, such as education and livelihood assistance, are severely limited in conflict and post-conflict areas, leaving the physical and psychological health needs of victims unmet.

#### **Trafficking of migrant workers into conflict zones**

35. Over the past decade, private contractors have been employed by States and their military to support large-scale military operations. While not all cases of contracting and subcontracting involve trafficking for labour exploitation, there have been cases where large firms that hold the prime contract with States and their militaries hire migrant workers through smaller subcontractors or local employment agencies to perform tasks including cleaning, construction, cooking and serving, and haircutting.

36. A pattern of deceptive recruitment, excessive recruitment fees, confiscation of workers’ passports, dangerous working conditions and poor living conditions, debt bondage, underpayment or non-payment of wages and other types of abuse and exploitation are, in some cases, indicative of trafficking in persons for labour exploitation within the scope of the international legal definition. Examples include the exploitative recruitment of South Asian migrant workers to provide service at military worksites of conflict areas in the Middle East. The subcontractor deceives the workers about the country of work, which is more dangerous than the promised country, and the type of work to be done, and withholds workers’ passports to prevent them from fleeing the conflict zone where they were deceptively hired to work.<sup>30</sup>

### **E. Trafficking in post-conflict situations**

37. Post-conflict situations are typically characterized by absent or dysfunctional justice and law enforcement institutions; a consequent climate of impunity that fosters violent criminal networks; high levels of poverty and lack of basic resources; significant inequality;

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<sup>30</sup> American Civil Liberties Union and Allard K. Lowenstein International Human Rights Clinic at Yale Law School, *Victims of Complacency: The Ongoing Trafficking and Abuse of Third Country Nationals by U.S. Government Contractors* (New York, 2012), p. 15.

large populations of highly vulnerable individuals (displaced persons, returnees, widows, unaccompanied children); fractured communities and lack of trust; and militarized societies tolerant of extreme levels of violence. These features render men, women and children in post-conflict societies especially vulnerable to trafficking.

38. In the post-conflict climate, the vulnerability of women and girls to trafficking-related exploitation is heightened by their relative lack of access to resources, education, documentation in their own name and protection. While trafficking-related exploitation is part of conflict, it is common for societies to experience a rise in trafficking for sexual exploitation (e.g., for forced prostitution) as well as other forms of gender-based violence, such as rape and domestic violence, after a conflict has formally come to an end.<sup>31</sup>

### **Trafficking involving peacekeepers**

39. In 2015, more than 123,000 United Nations military, police and civilians were deployed in 16 operations around the world to prevent or contain fighting; stabilize post-conflict zones; help implement peace accords; and assist in democratic transitions (A/70/95-S/2015/446). Other intergovernmental bodies, including the African Union and the North Atlantic Treaty Organization (NATO), also have large numbers of personnel on the ground supporting the maintenance of peace and security, including in post-conflict situations.

40. Peacekeeping forces play a vital role in protecting communities, including women and children, from the violence and exploitation that is a common feature of post-conflict situations. But foreign forces can also exacerbate, and sometimes even contribute directly to, such harm.

41. Involvement of military, peacekeeping, humanitarian and other international personnel in trafficking is a complex issue and one that is not yet fully understood. Certainly, a large, militarized and predominantly male international presence can fuel the demand for goods and services produced through trafficking for labour and/or sexual exploitation.

42. A 2010 study, using Haiti, Kosovo and Sierra Leone as case studies, demonstrates the link between the introduction of peacekeeping forces into a conflict zone and the subsequent increase in human trafficking as a direct result of an increase in demand for sexual services.<sup>32</sup> Involvement of peacekeepers in trafficking in persons, especially women and children, can be both direct and indirect. Buying, selling or exchanging sexual services provided by trafficked women and children is an example of indirect involvement by peacekeepers. For instance, the demand for sexual services created by peacekeepers deployed in the former Yugoslavia led to an expansion of the sex industry, with many of the women trafficked and sexually exploited in brothels established expressly to serve United Nations peacekeepers. The relationship between deployed troops and the demand for trafficked women was unmistakable.<sup>33</sup>

<sup>31</sup> See further Rehn and Johnson Sirleaf, *Women, War, Peace*; Rashida Manjoo and Caleigh McRaith, "Gender-based violence and justice in conflict and post-conflict areas", *Cornell International Law Journal*, vol. 44, No. 1 (Winter 2011); and *Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of United Nations Security Council Resolution 1325* (United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), 2015).

<sup>32</sup> Charles Smith and Brandon Miller-de la Cuesta, "Human trafficking in conflict zones: the role of peacekeepers in the formation of networks", *Human Rights Review*, vol. 12, No. 3 (September 2011).

<sup>33</sup> See E/CN.4/2006/62/Add.2 and Human Rights Watch, *Bosnia and Herzegovina – Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution*

43. International personnel are generally deployed to conflict or immediate post-conflict situations in which populations are vulnerable and basic institutions, including law enforcement, are fragile or non-existent (A/59/710). The presence of peacekeepers, through an increased demand for sexual services, further exacerbates women's social and economic vulnerabilities in a fragile post-conflict society as well as an economy of exploitation, which can support trafficking networks in the longer term. For instance, the recent cases of sexual abuse and exploitation by peacekeepers in the Central African Republic<sup>34</sup> who prey on the economic vulnerability of children and women as well as on their need for assistance and protection could, in some cases, be linked to trafficking for purposes of sexual exploitation.

## **F. International legal framework**

44. The international legal framework around trafficking in conflict and post-conflict situations is a composite one that draws on multiple branches of law, including transnational criminal law, international humanitarian law, international criminal law, refugee law and human rights law. In some cases, common and overlapping rules operate to ensure that certain protections (e.g., against slavery and forced labour) are applicable in all situations, including international and non-international armed conflict. In other cases, particular rules and protections will apply depending on the nature of the situation under consideration.

45. Instead of providing a comprehensive analysis, in this part of the report the Special Rapporteur aims to provide an overview of the legal landscape by addressing the rules that govern the core violations and issues identified above.

### **Sources of relevant law**

46. Given the complexities surrounding trafficking in conflict and post-conflict situations, which can be considered from a number of different perspectives, the range of sources of relevant law is very wide. In the human rights area, for example, treaties dealing with slavery and the slave trade, forced labour, child labour, the rights of women, the rights of children, migrant workers and persons with disabilities, as well as more general treaties dealing with civil and political rights or economic, social and cultural rights, are applicable to trafficking in all situations, including situations of armed conflict. Major crime control treaties, such as the United Nations Convention on Transnational Organized Crime and the United Nations Convention against Corruption are also relevant to trafficking in all situations, as are the specialist treaties dealing with the issue of trafficking, most particularly the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and, at the European level, the Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report, and the European Union Directive on preventing and combating trafficking in human beings and protecting its victims.

47. Within the specific context of armed conflict, additional legal instruments of obligation and protection apply. The most relevant of these for the current purposes is the Rome Statute of the International Criminal Court, which addresses, inter alia, war crimes

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(New York, 2002); Keith Allred, "Combating human trafficking", *NATO Review* (2006); and Rehn and Johnson Sirleaf, *Women, War, Peace*.

<sup>34</sup> See A/70/729 and [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18548&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18548&LangID=E).

and crimes against humanity and specifically addresses grave forms of sexual violence, including rape, sexual slavery, enforced prostitution, forced pregnancy or enforced sterilization. Also of relevance are the instruments of international humanitarian law that prohibit certain conduct in the context of international and non-international armed conflict, including slavery, sexual slavery, sexual violence and forced labour. It is important to note, however, that trafficking itself, and the gender-based harm with which it is associated, has never been explicitly prohibited, or even regulated, by international humanitarian law. This despite the fact that, as shown previously, many of the worst practices associated with armed conflict, such as the forced recruitment of child soldiers, the organized sexual enslavement of women and the enlistment of civilians into forced or highly exploitative labour, could also fall within the international legal definition of trafficking. However, international instruments have been interpreted in accordance with evolving human rights norms and standards through the jurisprudence of the international tribunals.

48. Other accepted sources of international law, such as State practice, custom and the decisions of international tribunals, can also be relevant when determining exactly what is required of States with respect to their response to trafficking in situations of conflict. In relation to custom, for example, the prohibition on slavery is recognized to be a part of customary international law, binding on all States irrespective of whether they have actually become party to one or more treaties that specifically prohibit slavery in all situations, including in conflict. The prohibition on forced labour of civilians has also been identified as a rule of customary international humanitarian law (see para. 53 below). Examples of judgments of international tribunals that have helped to shape the international legal framework include *Rantsev v. Cyprus and Russia*, decided by the European Court of Human Rights in 2010, which is relevant to State responsibility to investigate and prevent trafficking, and the decision by the International Tribunal for the Former Yugoslavia in *Prosecutor v. Kunarac et al.* (2001) convicting the defendants of enslavement as a crime against humanity.

49. Finally, several soft law instruments reflect and contribute to the relevant international legal framework. These include the principles and guidelines on human rights and human trafficking recommended by the United Nations High Commissioner for Human Rights; UNHCR guidelines on trafficking and asylum; resolutions of the General Assembly and the Human Rights Council; findings and reports of international human rights mechanisms such as treaty bodies and special procedures; and non-treaty agreements between countries regarding issues such as the repatriation and reintegration of trafficked persons as well as between the United Nations and Member States on matters relating to peacekeeping.

#### **Laws and instruments that address specific violations related to trafficking in conflict and post-conflict situations**

50. **Prohibition on trafficking and migration-related exploitation.** International law requires States to criminalize and penalize a range of conduct related to trafficking. The obligation to criminalize trafficking when committed intentionally is set out in article 5 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Most States (168, as at October 2015) are party to the Protocol and thereby bound by this obligation. Many States are also bound by one or more of the regional trafficking treaties, such as the Council of Europe Convention and the European Union Directive cited above, which impose identical obligations.

51. **Prohibition on enslavement, including slavery.** International law prohibits slavery, servitude and practices similar to slavery, including debt bondage and serfdom, and servile forms of marriage and exploitation of children. The prohibition on slavery (defined

as “the status or condition of a person over whom any or all of the powers attaching to the rights of ownership are exercised”<sup>35</sup> is one of the oldest of all international legal norms, enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and several of the specialist and regional human rights treaties. Slavery and its associated practices are identified in the international legal definition of trafficking as a “purpose” of trafficking.

52. **Prohibition of sexual exploitation.** Sexual exploitation is one of the purposes of trafficking stipulated in the international legal definition. However, it is not defined in any of the specialist trafficking instruments and has no agreed definition in international law except when it involves children.<sup>36</sup> There have nevertheless been various attempts to attach a particular understanding to the term in relation to specific settings. For example, in connection with its policies around sexual exploitation and abuse by United Nations personnel, the Secretary-General has defined sexual exploitation as “any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another”.<sup>37</sup> State practice would appear to support an understanding of sexual exploitation in the context of trafficking that includes a broad range of practices such as forced prostitution, forced surrogacy, forced or fraudulent marriage and all forms of commercial and other sexual exploitation of children.<sup>38</sup>

53. **Prohibition on forced labour:** ILO core instruments as well as the International Covenant on Civil and Political Rights and all regional human rights conventions expressly prohibit “forced or compulsory labour”. The ILO Forced Labour Convention, 1930 (No. 29) defines this as “all work or service, which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. The international legal prohibition on forced labour has been reaffirmed through the adoption of the Protocol of 2014 to the Forced Labour Convention 1930. The purpose of this new instrument is to take a more comprehensive approach to forced labour by focusing specifically on issues of prevention, protection and remedy, and also to work towards the abolition of human trafficking that results in forced labour.<sup>39</sup>

54. **Prohibition on recruitment and use of child soldiers.** International law — both human rights law and international humanitarian law in their treaty and customary forms — prohibits, absolutely, the recruitment of children into armed conflict, whether by armed forces or armed groups. This prohibition forms part of a broader rule that children must not be allowed to take part in hostilities. While the definition of “child” in international law encompasses persons up to 18 years of age, most treaty-based prohibitions on the use and recruitment of child soldiers stipulate that the prohibition applies to children under the age of 15.<sup>40</sup>

<sup>35</sup> Article 1 of the Slavery Convention of 1926.

<sup>36</sup> Convention on the Rights of the Child, art. 34 and Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, arts. 3 (b) and 18-23.

<sup>37</sup> See ST/SGB/2003/13, sect.1. The Office of Internal Oversight Services, responsible for investigating misconduct, has stated that “engaging in sex with prostitutes” is an example of sexual exploitation. See <https://oios.un.org/page?slug=frequently-asked-questions>.

<sup>38</sup> See United Nations Office on Drugs and Crime, *The Concept of “Exploitation” in the Trafficking in Persons Protocol*, Issue Paper (Vienna, 2015).

<sup>39</sup> International Organisation of Employers (IOE)-ILO Guidance Note on the 2014 Protocol to the Forced Labour Convention, 1930.

<sup>40</sup> See Convention on the Rights of the Child, art. 38 (3); Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, arts. 2 and 3; ILO Worst Forms of Child Labour Convention, 1999 (No. 182), arts. 1 and 3; Protocol Additional to the Geneva

55. **Special legal situation of trafficking involving peacekeeping forces.** With regard to criminal accountability of peacekeepers, the core instrument is the status of forces agreement (A/45/594) that the United Nations concludes with countries that contribute troops to its peacekeeping and peacebuilding operations. Under these agreements, contributing countries retain exclusive responsibility for disciplining and criminally sanctioning their military contingents. In addition, recent reports to the Secretary-General, as well as resolutions of the General Assembly and Security Council continually address gaps in addressing human rights violations committed by peacekeeping forces.<sup>41</sup> In relation to other personnel (e.g., civilian advisers) over whom the contributing country does not have exclusive jurisdiction, the United Nations will generally refer the case to the contributing country.<sup>42</sup>

56. **Rights of victims of trafficking in armed conflict.** Victims of trafficking are entitled to the same rights, due diligence protection and prevention against trafficking in persons by States whether in times of conflict or otherwise. These rights include:

(a) *Right to be identified.* The recommended principles and guidelines on human rights and human trafficking and the commentary to the Council of Europe Convention on Action against Trafficking highlight that failure to correctly identify a trafficked person, or to identify her or him at all, will directly affect the ability of that person to access the rights to which she or he is entitled. States are therefore required to take positive steps to identify victims of trafficking accurately and in a timely manner and to ensure that they are referred to appropriate services. During situations of conflict, the risk of identification failures is very high;

(b) *Right to protection.* International law requires States to ensure that victims of trafficking under their jurisdiction or effective control are protected from further exploitation and harm. To that end, States are required to take reasonable measures, within the scope of their powers, to move the victim out of the place of exploitation to a place of safety; attend to the victim's immediate medical needs; assess and address the risk of the victim being subject to intimidation or retaliation; and protect the victim's privacy. However, during conflict, even the most basic and urgent victim protection measures may be difficult or impossible to secure;

(c) *Right to assistance and support.* The State in which a trafficked person is located is required to provide that person with adequate physical and psychological care to meet at least immediate needs. While the substantive content of this obligation is not yet settled, there is general agreement that the right to assistance and support includes provision of appropriate shelter; counselling and information; medical, psychological and material assistance; and employment, educational and training opportunities. Special attention should also be given to the needs of particular groups, including victims who are disabled or otherwise especially vulnerable. In the case of child victims, international law requires that the overarching rule of "the best interests of the child" guide decision-making about support;

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Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 77 (2); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), art. 4 (3) (c); and Rome Statute of the International Criminal Court, art. 8 (2) (b) (xxvi) and (e) (vii).

<sup>41</sup> See A/70/95-S/2015/446, A/70/357-S/2015/682, S/2015/716, A/70/729 and "Taking action on sexual exploitation and abuse by peacekeepers", report of an independent review on sexual exploitation and abuse by international peacekeeping forces in the Central African Republic, December 2015.

<sup>42</sup> See ST/SGB/2003/13 and Carla Ferstman, "Criminalizing sexual exploitation and abuse by peacekeepers", United States Institute of Peace Special Report 335, September 2013.

(d) *Access to remedies.* International law provides victims with the right to adequate and appropriate remedies for the harm they have suffered. The form of remedy should, as far as possible, expunge the consequences of the breach and re-establish the situation that existed prior to its occurrence. In trafficking cases, compensation for harm as well as for material losses, such as unpaid wages, is an important form of remedy. As the mandate of the Special Rapporteur has amply demonstrated (A/HRC/17/35, A/HRC/17/35/Add.6 and A/HRC/26/32), the right to a remedy is often not effectively available to trafficked persons because laws, policies and mechanisms for such remedies are weak or non-existent and even where the necessary infrastructure is in place, victims frequently lack information on the possibilities and processes for obtaining remedies. Conflict exacerbates the scale and impact of these obstacles. Where trafficking-related exploitation occurs within a situation of conflict, the possibility for victims to secure adequate and appropriate remedies is remote because the State most directly concerned often lacks the capacity to deliver such remedies, and it is difficult or impossible to determine who is legally responsible for providing access to remedies and how this responsibility can be enforced;

(e) *Right to safe return/protection from re-trafficking/protection from persecution.* All victims of trafficking who are not residents of the country in which they find themselves are entitled to return to their country of origin. This right places an obligation on the part of the country of origin to receive its returning nationals without undue or unreasonable delay. The right to return also implies an obligation on the country of destination to permit those victims who wish to return to do so, again without undue or unreasonable delay. Detention of trafficked persons in shelters, prisons or immigration detention facilities is one way in which the right to return can be interfered with. International law supports a standard of safe and preferably voluntary return for trafficked persons, which implies, at a minimum, that steps are taken to ensure that victims are not at serious risk of re-trafficking or persecution. The right to seek and claim asylum from persecution requires States to avoid returning victims to situations of persecution or risks of serious human rights violations. Issues around return are complicated by conflict.

## IV. Conclusion

57. **All forms of trafficking in persons can be found in situations of conflict, including trafficking for forced prostitution and other forms of sexual exploitation; trafficking for forced military recruitment, including of children; trafficking for other forms of forced labour; trafficking for forced criminality; and trafficking for slavery, for servitude and for removal of organs.**

58. **However, conflict influences the form and nature of trafficking in different ways. First, the severity of trafficking-related exploitation appears to be greater when it occurs during or, indeed, after conflict, enhanced by conditions that are themselves a cause or consequence of conflict, such as impunity and increased, generalized violence. Second, certain forms of trafficking-related exploitation are either particular to conflict or more prevalent in situations of conflict, such as forced military recruitment of both children and adults. Sexual exploitation is another form of trafficking that intersects with the dynamics of situations of conflict, including the use of proceeds from trafficking, trading and ransoming individuals to purchase arms and pay fighters, which perpetuates the cycle of violence against civilians.**

59. **A range of conditions particular to, or commonly associated with, situations of conflict fuel trafficking by amplifying vulnerabilities and increasing opportunities for exploitation. These include, but are not limited to, a distorted economy that is heavily reliant on criminality and the presence of organized criminal groups already involved**

in cross-border trafficking of arms, drugs and other illicit products that have the capacity to expand into trafficking in persons and that are in a position to take advantage of additional opportunities to generate profit. A weak or non-existent justice and protection system that perpetuates impunity fails to protect the most vulnerable groups and individuals of society from exploitation. Porous borders that make border crossing easier further contribute to trafficking. Other factors include a high prevalence and toleration of violence that extends beyond armed forces to include communities and families, as well as pressure to move, leading to dangerous migration decisions.

60. These and other factors do not just create the conditions under which trafficking can occur; they also exacerbate the vulnerability of those who may already be susceptible to being trafficked, including women, refugees and unaccompanied children.

61. In addition, the nature and form of trafficking in persons associated with conflict are highly gendered. For example, abduction into military forces affects males and females differently. Men and boys are typically forced into soldiering while women and girls are generally forced into support roles and typically face much greater risk of sexual assault as either a primary purpose or an additional manifestation of their exploitation. As previously noted, sexual enslavement, a practice exacerbated by situations of conflict, is highly gendered in that it disproportionately affects women and girls. Other forms of trafficking-related exploitation particular to or especially prevalent in conflict, including forced and temporary marriage, are highly gendered in their motivation and impact, which underscores the importance of a gender analysis in all trafficking prevention efforts and responses.

62. Finally, while the Special Rapporteur in the present report raises international awareness of the forms and nature of trafficking in persons related to the complex situation of conflict, she by no means deals exhaustively with all such forms and types of trafficking. As new types of conflict arise and modern means of combat are used, further research is required to identify new and emerging forms of trafficking related to conflict.

## V. Recommendations

63. In view of States' legal responsibility to identify, protect and assist trafficked persons in all circumstances, including in conflict and post-conflict situations, and to work to ensure that those responsible for violations of human rights and the laws of war are held accountable, the Special Rapporteur offers the following recommendations.

### **Recommendations in relation to trafficking of persons in conflict areas or trafficking of persons fleeing conflict**

64. All States, particularly those hosting potential victims of trafficking among persons fleeing conflict, should:

(a) Protect people, particularly children, women and minority groups in conflict-affected areas and people fleeing conflict, from all forms of trafficking in persons;

(b) Identify measures to prevent exploitation of the labour of nationals and non-nationals fleeing conflict, including by establishing safe and legal channels of

migration, respecting the principle of non-refoulement and ensuring that migrants have regular access to the labour market in the host country, in cooperation with United Nations agencies and programmes and international organizations;

(c) Ensure free-of-charge birth and marriage registration of nationals and non-nationals fleeing conflict, including in internally displaced person and refugee camps, in cooperation with United Nations agencies and programmes and international organizations, in order to prevent or address potential trafficking in children for sexual and other forms of exploitation and the exploitation of the labour of individuals, particularly underage children and women;

(d) Prevent and prosecute all forms of trafficking in persons for all purposes, including for temporary, forced and/or servile marriages;

(e) Grant non-national victims of trafficking residence status and assistance, not to be made conditional on the initiation of criminal proceedings or their cooperation with law enforcement authorities;

(f) Adequately train all stakeholders, including peacekeepers and humanitarian personnel working in conflict zones, in refugee camps and in areas of arrival of large influxes of people fleeing conflict, to identify trafficking or risks of trafficking, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations;

(g) Establish and/or adapt national referral mechanisms for assistance and protection services, including gender- and child-sensitive measures, for victims and potential victims of trafficking in persons, involving national authorities and civil society organizations in the decision-making, especially relating to the identification and protection of victims and potential victims;

(h) Not detain, prosecute or punish victims of trafficking for violations of immigration laws or for unlawful activities they were involved in as a direct consequence of their situation as trafficked persons, including violations and offences linked with prostitution, petty crime and irregular entry/stay in the host country.

65. United Nations agencies and programmes, international organizations and humanitarian actors should:

(a) Share and apply measures, methodologies and indicators to identify as early as possible and prevent trafficking in persons from the outset of a conflict/crisis, even if incidents of trafficking have not been previously detected, and to identify at an early stage trafficking or risks of trafficking, including for the purpose of sexual exploitation and labour exploitation or other forms of exploitation in source, transit or host countries;

(b) Establish or revise existing standard operating procedures and conduct training for personnel, including personnel of contractors and implementing agencies who are likely to enter into contact with victims and potential victims of trafficking as well as with traffickers. These should include instructions concerning protective measures, including appropriate and tailored assistance, to be applied when indications of trafficking, exploitation or risk of trafficking are found, in collaboration with authorities and civil society organizations;

(c) Include prevention of trafficking in persons as part of life-saving protection activities, from the outset of a conflict/crisis;

(d) Include rights-based anti-trafficking response/action in existing cluster systems for humanitarian action;

(e) Cooperate with Government and actors involved in the short- and long-term response to conflict, including with respect to the social integration of victims of trafficking in persons.

#### **Recommendations in relation to protection of children from trafficking in persons**

66. States hosting, among persons fleeing conflict, children who may have been or are at risk of being victims of trafficking in persons should:

(a) Prevent trafficking in persons, especially targeting unaccompanied children such as orphans, children left behind by parents fleeing conflict and children moving alone to flee conflict areas, in cooperation with national civil society organizations, United Nations agencies and programmes and international organizations;

(b) Adopt proactive measures to protect children caught in conflict that are based on the best interest of the child and in line with international humanitarian, human rights and refugee law, when indications of child trafficking or risk of child trafficking are identified;

(c) Recognize the specific vulnerability of trafficked girls or potential victims of trafficking for sexual and labour exploitation in conflict and post-conflict situations and take measure to reduce the vulnerabilities;

(d) Ban administrative detention of children, in particular but not only for violations of immigration laws and regulations;

(e) Ensure that trafficked children and other trafficked persons are not detained, prosecuted or punished for violations of immigration laws or for unlawful activities they are involved in as a direct consequence of their situation as trafficked persons.

67. The United Nations should ensure that child trafficking is linked to the six grave violations and abuses against children.<sup>43</sup> Such violations should be taken into consideration as a ground on which to bar countries repeatedly listed in the annual reports of the Secretary-General on children and armed conflict as being involved in those violations from contributing troops to United Nations operations.

#### **Recommendations for strengthening responses to address trafficking of women and girls for purposes of sexual exploitation in conflict and post-conflict situations**

68. All States, whether a source, transit or destination country of women and girls trafficked for sexual exploitation in conflict and-post conflict areas, should:

(a) Recognize and address the vulnerability of women and girls fleeing conflict to trafficking for sexual exploitation, whether in refugee/internally displaced persons camps or at the hands of the military, extremist groups or family members;

(b) Prevent early marriages, whether in refugee/internally displaced persons camps or in the society of the host country;

(c) Prevent and prosecute all forms of trafficking of women and girls for temporary, forced and/or servile marriages;

<sup>43</sup> See Security Council resolution 1612(2005) and <https://childrenandarmedconflict.un.org/effects-of-conflict/six-grave-violations/>.

(d) Identify, protect and assist victims of trafficking for sexual exploitation and sexual slavery;

(e) Address the root causes of trafficking in persons on the basis of a gender-sensitive approach, in cooperation with civil society organizations, United Nations agencies and programmes and international organizations;

(f) Ensure that issues concerned with sexual and other forms of gender-based violence, including human trafficking, are incorporated into peacebuilding and post-conflict reconstruction processes and support women's full and equal participation in decision-making, especially when this relates to trafficking issues in conflict situations, in line with the general guidelines and recommendations of the *Global Study on the Implementation of United Nations Security Council Resolution 1325*.

**Recommendations in relation to the prevention of trafficking in persons for labour exploitation in conflict and post-conflict areas**

69. State contracting agencies of armed forces deployed in conflict and post-conflict areas, including in the context of peacekeeping operations, should:

(a) Exercise due diligence when employing workers, including migrant workers, to provide goods and services and must help ensure that businesses operating in conflict and post-conflict areas are not involved in human rights abuses, including trafficking in persons for labour exploitation;

(b) Whenever possible, hire workers directly rather than by engaging contractors or subcontractors or using intermediate agencies, to ensure that the supply chain is free of trafficked persons;

(c) Ensure that business enterprises in conflict areas, whether private or State-owned/supported, are not involved in trafficking in persons, including for the purpose of labour exploitation; and ensure transparent and strict requirements for the entire recruitment process and strict rules for placement and employment agencies;

(d) Require and ensure that private individuals or companies they have contracted or subcontracted protect the rights of workers, including migrant workers and refugees, and provide decent working and living conditions to workers, including safeguarding their right to return and their freedom of assembly and association;

(e) Exercise due diligence to prevent or mitigate trafficking committed by subcontracted private individuals or companies that are directly linked to their operations, even if the State agencies of armed forces have not themselves contributed to the violations;

(f) Establish monitoring and control mechanisms at labour sites with an effective complaint mechanism to enable workers to report instances of trafficking.

**Recommendations in relation to anti-trafficking action in peacekeeping operations**

70. States contributing personnel to peacekeeping operations should:

(a) Waive the immunity of peacekeepers as soon as indications of their involvement in trafficking situations or exploitation have been discovered and prosecute perpetrators without delay;

(b) Ensure that mandatory trainings for peacekeeping personnel include the prevention of trafficking, the identification of situations involving trafficking or risks of trafficking, and assistance to and protection of victims and potential victims, in cooperation with United Nations agencies and programmes and international organizations;

(c) Ensure adequate protection of whistleblowers and prevent any adverse impact on their careers and working conditions;

(d) Disclose publicly information on disciplinary and administrative procedures taken by contributing countries in relation to alleged perpetrators within their troops;

(e) Implement the special measures for protection from sexual exploitation and sexual abuse by United Nations peacekeeping personnel proposed by the Secretary General (A/70/729) and the recommendations contained in the report of the independent review on sexual exploitation and abuse by international peacekeeping forces in the Central African Republic, "Taking action on sexual exploitation and abuse by peacekeepers".

71. The United Nations should:

(a) Continue its effort to implement and reinforce the United Nations zero-tolerance policy on sexual exploitation and abuse by peacekeepers<sup>44</sup> and ensure the protection of victims, including by negotiating with the host country the possibility of granting subsidiary jurisdiction to hear and adjudicate claims of sexual abuse and exploitation, and provide compensation to victims of trafficking in persons;

(b) Address labour exploitation by making all necessary efforts to ensure that, in conflict and post-conflict areas and including in the context of peacekeeping operations, all workers, including migrant workers, employed by State and non-State military actors, their contractors and subcontractors are employed in decent conditions of work, and establish a zero-tolerance policy towards violations of those workers' fundamental rights.

#### Recommendations in relation to research and awareness-raising

72. Concerned governmental institutions, law enforcement authorities, civil society organizations, academia, United Nations agencies and programmes and international organizations should undertake further research on the different forms of trafficking in persons in relation to conflict and post-conflict situations, including on:

(a) The linkage between trafficking in persons and xenophobia, including the vulnerability of minority groups to trafficking;

(b) The linkage between gender and trafficking in persons in conflicts, not only with regard to girls and women but also boys and men;

(c) Recruitment modalities employed by extremist groups, especially with respect to children and their use as combatants, sexual slaves, human shields or suicide bombers;

<sup>44</sup> See A/70/95-S/2015/446, A/70/357-S/2015/682, S/2015/716, A/70/729, Security Council resolutions 2242 (2015) and 2272 (2016) and "Taking action on sexual exploitation and abuse by peacekeepers".

(d) **The link between organized crime and all forms of trafficking in persons, especially women and children, as a result of a weak rule of law during and following conflicts;**

(e) **The role of individual, family, and/or community-based criminal intermediation in fuelling human trafficking, especially for the purpose of temporary, forced and/or servile marriages related to conflict;**

(f) **Trafficking in persons for the purpose of removal of organs in the context of conflict;**

(g) **Early identification of cases of trafficking in persons, especially women and children, in the context of massive influxes of migrants as a result of conflict.**

73. **The media should be adequately sensitized on the linkage between trafficking in persons, especially women and children, and conflict and be aware of its gender dimension, in order to be able to report correctly about incidents of trafficking affecting girls, boys, women and men occurring in such circumstances.**

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