



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

Ms. Siobhán Mullally

Statement of the UN Special Rapporteur on Trafficking in Persons, especially women and children on the occasion of the 10th session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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Chairperson and Distinguished delegates,

Thank you for the opportunity to address the Conference of the Parties, on the occasion of the 20th anniversary of the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol), and 10th session of the Committee of the Parties to the UN Convention against Transnational Organized Crime.

2020 also marks the 20th anniversary of Security Council Resolution 1325 on Women, Peace and Security and 25 years since the adoption of the Beijing Declaration and Platform for Action.

These shared anniversaries provide us with an opportunity to strengthen our efforts to ensure that human rights, and international human rights law, is at the heart of our response to the crime and serious human rights violation of trafficking in persons.

There are now 178 States Parties to the Palermo Protocol, and five countries, namely Bangladesh, Brunei Darussalam, Comoros, Nepal and Palau, have recently acceded to the Protocol. This brings us closer to the goal of universal ratification. Significant work remains however to ensure effective implementation of the Protocol and its human rights commitments on the ground.

One of the purposes of the Palermo Protocol is, “to protect and assist the victims of ...trafficking, with full respect for their human rights.” As was noted, however, in the Political Declaration adopted on the occasion of the 25th anniversary of the Fourth World Conference on women:

“[...] major gaps remain and [...] obstacles, including structural barriers, discriminatory practices and the feminization of poverty, persist, [...], significant levels of inequality persist globally, [...] many women and girls experience multiple and intersecting forms of discrimination, vulnerability and marginalization throughout their life course.”

In the COVID-19 Position paper of the Special Rapporteur on Trafficking in Persons, especially women and children, *The impact and consequences of the COVID-19 pandemic on trafficked and exploited persons* (updated 8 June 2020), the gendered impact of the pandemic was highlighted, as was the heightened impact on children, particularly those whose school attendance was interrupted for an extended period.



Specifically the Special Rapporteur recommended that:

States should ensure that response plans to COVID-19 include gender sensitive and age appropriate measures to protect children from abuse and neglect;

Child protection services should be considered an essential service which must be adequately resourced

The importance of working with the IT sector, to combat online trafficking of children for the purpose of sexual exploitation in particular, was also highlighted and was again reinforced on the occasion of the International Day of the Girl Child, October 11.

Digital technologies can be tools for the good, to raise awareness of risks and exploitation. However, regulation and close, effective cooperation to ensure that states and businesses meet their obligations of due diligence, to prevent trafficking and protect victims, is critical.

The particular risks of exploitation faced by migrant workers, particularly those who are in irregular migration situations and in precarious working conditions, has also been highlighted. The COVID-19 pandemic has highlighted existing and persistent inequalities and the precariousness of many migrant workers particularly those in domestic work, and in informal sectors.

To address the increased risks of exploitation for migrant workers, noting the commitments made in the Global Compact on Migration, and in international human rights and international labour standards, the Special Rapporteur has recommended that:

States should formally acknowledge the contribution of migrant workers to support economies and fill labour shortages;

- States should consider regularization and extension of temporary permits to allow migrant workers to access social benefits schemes;

- States should ensure safe mobility within and across countries and grant working visas to seasonal workers;

- States should make sure that all workers are provided with adequate health protections and that occupational safety and health measures are put in place;

- States should strengthen legal and social protection pathways for victims of labour exploitation;

- States should not suspend labour inspections due to the COVID-19; labour inspectorates should be trained to recognize cases of trafficking and exploitation;

- States should facilitate access to justice for victims of trafficking and exploitation;

- States should not detain, charge or prosecute exploited persons for irregular work or irregular residence status;



- States should not detain, charge or prosecute victims of trafficking for labour exploitation for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons (non-punishment principle).

As we mark the 20th anniversary of the Palermo Protocol, we need to continue our efforts to strengthen partnerships and cooperation, in particular multilateral cooperation premised on a firm commitment to human rights.

Legal and policy measures to combat trafficking in persons must be shaped and defined by those most affected - victims and survivors of human trafficking. Their participation and leadership is critical to a human rights-based approach to human trafficking, to ensuring accountability and effective access to justice for victims, and to breaking the cycle of exploitation that we see in trafficking and re-trafficking and also in the secondary victimisation of the children of trafficked persons.

It is critical that we work with the UN human rights system, in partnership with UN human rights treaty bodies, UN Special Procedures and in particular with the regional human rights bodies that are closer to those most affected on the ground and can have a significant impact.

The CEDAW Committee will shortly publish its first General Recommendation on Trafficking in Women and Girls in the context of International Migration. Other UN human rights treaty bodies are addressing human trafficking as part of their ongoing country monitoring and in individual communications, and have already addressed increased risks of exploitation faced by children for example.

The adoption of Protocol of 2014 of the Forced Labour Convention marked a significant advance in addressing trafficking for the purpose of labour exploitation. The Protocol includes strict legal obligations not only to criminalise and prosecute forced labour, but also to take prevention measures to ensure effective remedies regardless of a victims' legal status within a state.

These core human rights obligations are critical given the limits of voluntary social compliance initiatives to address trafficking of persons, including trafficking in persons occurring in supply chains.

Beyond the criminal justice response, addressing the labour dimension of human trafficking through effective implementation of labour and human rights standards will be essential to preventing and combating exploitation. Changing the business model, empowering workers and worker-led initiatives, is critical.

We have the tools and the international standards to enable us to make these changes. The UN human rights systems, the rights protected in the core UN human rights treaties all set out the core obligations on states, including obligations of non-discrimination and of due diligence to prevent trafficking in persons, to ensure effective remedies and to combat impunity.

The non-punishment principle, ensuring that victims of trafficking are not punished for crimes that they were compelled to commit, is central to recognising that victims and survivors are rights holders. To combat impunity, and to ensure accountability for the serious human rights violation that is



trafficking, we need to ensure that we are targeting the perpetrators of the crime of trafficking, not the victims. Guarantees of non-punishment will also facilitate victims of trafficking participating in criminal proceedings and supporting criminal investigation processes, without fear of prosecution. As such, the non-punishment principle is also critical to ensuring accountability and to combating impunity.

It is critical also to ensure continued engagement with the UN Security Council on trafficking in persons in conflict situations and in all situations, where there is a threat to or breach of peace and security. The human rights of victims and survivors must remain at the heart of Security Council actions to ensure more effective prevention and protection, to address the gender dimensions of trafficking in persons. More concerted action is needed to clearly recognise the links to the Women, Peace and Security Agenda and to Youth, Peace and Security.

It is timely also to recall Target 10.7 of the 2030 Agenda for Sustainable Development, in which states commit to facilitate orderly, safe, and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies. In my forthcoming report to the UN General Assembly (A/75/150), I call for profound changes in migration policies, including by establishing significant channels for regular migration and respecting the rights of all migrant workers regardless of their migration status or the sectors in which they work.

It is critical also to ensure that the victim receives appropriate protection and assistance, not conditional upon cooperation with the authorities. States must ensure that migrants who have become victims of trafficking in persons are provided with protection and assistance, including measures for physical, psychological and social recovery, as well as measures that permit them to remain in the country of destination, temporarily or permanently, facilitating victims' access to justice, including redress and compensation, in accordance with international law.

Long term social protection is critical, to replace shorter term and conditional assistance measures that only heighten the risks of re-trafficking and secondary victimisation.

Meaningful partnerships with civil society, adequately resourcing and supporting NGOs and human rights defenders working with victims of trafficking will be critical to fulfilling the human rights of all trafficked persons.

Finally, Mr President and distinguished delegates, I will note that we have the legal standards to strengthen the human rights of victims / survivors of human trafficking - in international human rights law and in the Palermo Protocol and subsequent legal developments, including at international and regional levels. Of particular importance are regional human rights instruments and the growing body of jurisprudence from regional human rights courts, including the landmark cases of *Rantsev v. Cyprus and Russia*, *Chowdhury and Ors v. Greece* and *Hacienda Brasil Verde Workers v. Brazil*.



Together these ensure the progressive development of international law on human trafficking and strengthened human rights protection.

Thank you.

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