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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development****Trafficking in persons, especially women and children****Report of the Special Rapporteur on trafficking in persons, especially  
women and children***Summary*

The present report of the Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro, was prepared pursuant to Human Rights Council resolution 35/5.

Throughout her mandate, the Special Rapporteur has noticed that protection and assistance for victims of trafficking has been almost exclusively focused on short-term interventions, with little consideration being given to the rights and needs of victims and survivors in the long term. Mindful of this shortcoming, the Special Rapporteur argues in the present report that social inclusion of victims and survivors of trafficking in persons is a State obligation that stems from the due diligence standard and the right to effective remedy.

The Special Rapporteur also identifies key challenges related to long-term social inclusion, and highlights some promising practices that are innovative and transformative, which should be replicated, funded and implemented on a larger scale, by States, civil society organizations and the international community.



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## I. Introduction

1. The present report builds on previous reports of the Special Rapporteur on trafficking in persons, especially women and children – namely the reports on the principle of due diligence in addressing trafficking in persons (A/70/260) and the right to an effective remedy for trafficked persons (A/HRC/17/35 and A/66/283), as well as the basic principles on the right to an effective remedy for victims of trafficking in persons (A/69/269, annex).

2. The Special Rapporteur had the opportunity to enrich the present report with information received during two expert consultations which she convened in Geneva (13–14 December 2018) and Addis Ababa (31 January–1 February 2019). The first consultation brought together civil society representatives from the Americas and Europe, and representatives of the Council of Europe and the Inter-American Commission on Human Rights, as well as of United Nations agencies – the International Organization for Migration (IOM), the International Labour Organization, the United Nations Office on Drugs and Crime and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) – and of academia.<sup>1</sup> The second consultation brought together experts from civil society organizations and academia operating in Africa, Asia and the Middle East, as well as representatives of IOM.

3. In the drafting of the present report, the Special Rapporteur also benefited from about 60 written contributions in response to her call for submissions, of which 35 were by States and the rest by civil society organizations and international organizations.<sup>2</sup> She would like to warmly thank all those who took the time to take part in her consultations and provide her with valuable inputs. She also expresses her sincere appreciation for the written information she received and, more generally, for the support provided to her mandate.<sup>3</sup>

## II. Innovative and transformative models of social inclusion of survivors of trafficking in persons into societies

### A. Definition of social inclusion, and legal foundations

#### 1. The notion of social inclusion of trafficked persons and survivors

4. Trafficking in persons constitutes a serious violation of human rights, the roots of which lie in social, economic and cultural factors. The human rights of victims should be at the centre of every measure taken to address trafficking, including during the identification process and during criminal proceedings. This means protecting victims from further exploitation and harm, and ensuring their access to immediate and adequate assistance, support and remedies.<sup>4</sup> However, protection does not end with identification and referral to appropriate services, nor is it limited to the delivery of immediate and short-term assistance. Instead, it requires States to take robust and effective measures that can allow trafficked persons to rebuild their lives, free from threats of violence and exploitation, beyond the recovery and rehabilitation phase.

5. Commonly, trafficked persons who have been subjected to sexual, labour or any other form of exploitation face loss of self-esteem, marginalization and humiliation, which further isolates them from families and communities and increases their vulnerability, exposing them to the risk of being revictimized or re-trafficked or falling prey to other criminal activities. Assistance provided to trafficked persons should therefore not only be

<sup>1</sup> Special acknowledgement is due to the International Human Rights Clinic of the Duke University School of Law for its contribution to the present report.

<sup>2</sup> Unless otherwise specified, country situations mentioned in the present report come from the submissions sent by States.

<sup>3</sup> The activities of the mandate holder for the period October 2018–March 2019 are available at [www.ohchr.org/EN/Issues/Trafficking/Pages/Activities.aspx](http://www.ohchr.org/EN/Issues/Trafficking/Pages/Activities.aspx).

<sup>4</sup> A/HRC/29/38, para. 58.

aimed at removing them from their trafficking situations, but should also ensure their personal safety, agency, empowerment and independence in the long run. States should never return a victim to the situation that he or she was in before being trafficked. In light of the need to activate protection protocols for groups and persons who, due to structural, economic and gendered factors, are in a vulnerable situation,<sup>5</sup> States have the duty to adopt and implement long-term solutions to ensure the social inclusion of survivors into society. In the absence of viable long-term social inclusion options, it will be more difficult to break the cycle of trafficking and re-trafficking.

6. While the notion of social inclusion is not new under international law, it has mainly been developed in the field of social science, and has rarely been used in relation to trafficked persons, for whom the terms “reintegration” or “rehabilitation” are often preferred. The present report is an invaluable opportunity for the Special Rapporteur to advocate for the use of the term “social inclusion” in relation to trafficked persons. The rationale lies in the fact that the term “rehabilitation” often reflects a moralistic approach to anti-trafficking actions targeting sexual exploitation, and the term “reintegration” is commonly used in relation to return and repatriation of trafficked persons. On the contrary, social inclusion should be the final goal of anti-trafficking action, both in countries of destination, and in countries of origin in the case of return or repatriation.

7. The notion of social inclusion – similarly to the notion of social integration – conveys the idea of a process, of which recovery is the first step, the ultimate goal being the full and permanent restoration of all rights that had been violated before and during the trafficking cycle. Hence, social inclusion should be understood as a process of improving the terms of participation in society for people who are disadvantaged – through enhanced opportunities, access to resources, voice, and respect for their rights.<sup>6</sup> Furthermore, social inclusion is the opposite of social exclusion – the latter being a root cause of trafficking in persons – and thus implies empowerment of survivors and the participation of survivors in all decisions affecting them as its key component. This term also reinforces the idea that their experience of having been trafficked is not an irreversible condition but can be overcome and that the label of “trafficked persons” can and should be permanently removed. In her discussion with survivors, the Special Rapporteur acknowledged that there are degrees of social inclusion, and that inclusion into societies should be measured on the basis of an individual, and not a collective, assessment.

8. Social inclusion of trafficked persons requires the provision of long-term measures aimed at restoring their physical and psychological well-being and concurrently promoting their participation in the economic, social, cultural and political life of society, in line with every individual’s aspirations. Sensitizing families and societies to the importance of social inclusion is imperative in order for trafficked persons to be able to build renewed social relations with intimate partners, families and communities. The role of the private sector is also essential in order to ensure that trafficked persons have their right to work restored, which includes by facilitating and supporting their access to the labour market, and also through training, as a key element of social inclusion.

9. The Special Rapporteur underscores that social inclusion of trafficked persons can be a lengthy and complex process and may take years to complete. At times, it may also be difficult for trafficked persons to complete their training programmes, when poverty or family pressure pushes them to find a fast and easy income. It has also been reported that a number of trafficked persons have declined assistance due to personal circumstances at the time of deciding about taking part in an assistance programme, factors associated with the specifics of the assistance system itself, and the social context. Therefore, understanding the reasons, experiences and perceptions of those who refuse to participate in assistance

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<sup>5</sup> A/HRC/38/45.

<sup>6</sup> *Leaving No One Behind: The Imperative of Inclusive Development – Report on the World Social Situation 2016* (United Nations publication, Sales No. E.16.IV.1).

programmes can play an important role in tailoring anti-trafficking services to meet the needs and desires of each person concerned.<sup>7</sup>

## 2. International and national legal frameworks applicable to social inclusion of trafficked persons

10. State obligations, in relation to trafficking in persons, that stem from international instruments often intersect and overlap both with the right to remedy and with due diligence obligations. For example, breach of international law obligations gives rise to the right to remedy for victims, and may also comprise part of States' due diligence obligations, including their prevention obligations.<sup>8</sup> The prevention arm of a State's due diligence obligation requires it to address both potential trafficking victims and risks of re-trafficking, and requires that initiatives be "targeted to those most at risk of trafficking in persons".<sup>9</sup> This obligation includes measures relating to social inclusion, including "action to address the wider, more systemic processes or root causes that contribute to trafficking in persons, such as inequality, restrictive immigration policies, and unfair labour conditions, particularly for migrant workers".<sup>10</sup> The provision of "livelihood activities" is also part of this requirement.<sup>11</sup>

11. States have an obligation to ensure a right to remedy for victims of human rights violations. The Universal Declaration of Human Rights first recognized the right to an effective remedy for acts violating the fundamental rights granted by the constitution or by law (art. 8). Under international law, this obligation extends to situations based directly on acts or omissions committed either by State actors or by actors whose actions are attributable to the State, and to situations where the State has failed to exercise due diligence to prevent, investigate or punish abuses by non-State actors.<sup>12</sup> This approach requires States to adopt a gender-sensitive approach in all aspects of the right to remedy.<sup>13</sup> Relevant in this regard is the ruling by the Inter-American Court of Human Rights in *González et al. ("Cotton Field") v. Mexico*, which constitutes a landmark decision in the field of State responsibility and due diligence: for the first time, a human rights court found that States had due diligence obligations to respond to violence against women by private actors, referring extensively to the due diligence standard.<sup>14</sup> This standard was strengthened by the criteria adopted by the same Court in *Fazenda Brasil Verde v. Brazil*, in which the Court referred to the existence of exceptional due diligence in respect of victims in particular situations of vulnerability (see para. 364), adopting the criteria of the European Court of Human Rights in *Siliadin v. France* and *Rantsev v. Cyprus and Russia* to argue that this special due diligence standard applies to cases in which the integrity of the person is at risk. This standard implies a positive obligation to investigate and sanction any act aimed at keeping a person in a situation of slavery, servitude or forced work. Thus, the Court understood that the obligation to investigate and punish trafficking in persons was an obligation *ex officio* and that the requirement of due diligence was urgent in cases where there was the possibility of rescuing persons.<sup>15</sup>

12. According to the basic principles on the right to an effective remedy for victims of trafficking in persons, the right to remedy should include "restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition"<sup>16</sup> and reflect "a victim-centred

<sup>7</sup> Submission to the Special Rapporteur from the NEXUS Institute. See also Inter-Agency Coordination Group against Trafficking in Persons, "A toolkit for guidance in designing and evaluating counter-trafficking programmes".

<sup>8</sup> A/70/260, para. 19.

<sup>9</sup> *Ibid.*, para. 48.

<sup>10</sup> *Ibid.*, para. 20.

<sup>11</sup> *Ibid.*, para. 21.

<sup>12</sup> A/HRC/36/43, para. 12.

<sup>13</sup> A/HRC/35/23, para. 118 (b).

<sup>14</sup> Judgment of 16 November 2009.

<sup>15</sup> Judgment of 20 October 2016.

<sup>16</sup> A/69/269, para. 2.

and human rights-based approach that empowers victims of trafficking in persons and respects fully their human rights”.<sup>17</sup>

13. Specifically, restitution includes several features relevant to social inclusion, such as “enjoyment of human rights and family life, including reunification and contact with family members”,<sup>18</sup> “recognition of the victim’s legal identity and citizenship”,<sup>19</sup> “restoration of the victim’s employment”<sup>20</sup> and “assistance and support to facilitate social integration or reintegration of repatriated victims”.<sup>21</sup> Compensation includes, as appropriate, “reimbursement of costs incurred for legal or expert assistance; medicine and medical services; physical, social, psychological or psychiatric treatment or services; or any occupational therapy or rehabilitation required by the victim”.<sup>22</sup> Furthermore, guarantees of non-repetition include, where applicable, “safe return, temporary or permanent residence status where applicable, and integration support”,<sup>23</sup> “addressing the root causes of trafficking”<sup>24</sup> and “protecting legal, medical, health-care and other related professionals and human rights defenders who assist victims of trafficking in persons”.<sup>25</sup> Indeed, ensuring guarantees of non-repetition includes a strong preventive component, requiring States to address root causes of trafficking in persons, and of re-trafficking.<sup>26</sup> This requires, among other things, addressing deep structural causes of gender inequality and discrimination which remain leading drivers accounting for the disproportionate number of women and girls as victims of trafficking.

14. State obligations in the field of prevention also extend to potential victims of trafficking, and in this regard some promising practices have been registered. For instance, in 2017, the Government of Slovenia adopted its 2017–2021 National Programme of Measures for Roma, which is aimed at promoting social integration and reducing the social exclusion of members of the Roma community. The programme includes measures relevant to the prevention of human trafficking, such as empowerment measures for Roma girls and boys, programmes to prevent child, early and forced marriages, the preparation of a protocol for competent institutions on how to deal with these phenomena, and training of social workers on how to deal with children absconding to harmful environments. In the same vein, in Greece, the Ministry of Labour, Social Security and Social Solidarity has recently appointed a Special Secretary for the Social Inclusion of the Roma People, which pursues a similar objective.

15. Some States have developed promising legislation and policies on social inclusion of trafficked persons, including in relation to the right to effective remedy. In Italy, since 1998, Law No. 286/1998 has provided trafficked persons with residence permits and social protection for six months, with the residence permit renewable for one year and convertible to a residence permit for work (art. 18). At the level of the European Union, a special adviser to the President of the European Commission for compensation for victims of crime, including victims of trafficking, was appointed in 2017. In Paraguay, an inter-institutional consultative body coordinates anti-trafficking actions developed by the State, which include long-term assistance for victims. In Sri Lanka, the Commissioner General of Rehabilitation handles the rehabilitation and reintegration of child soldiers. Implementation of such policies should be coupled with a monitoring and evaluation phase, carried out in cooperation with civil society organizations.

<sup>17</sup> Ibid., para. 5.

<sup>18</sup> A/69/269, para. 9.

<sup>19</sup> Ibid., para. 9 (e).

<sup>20</sup> Ibid., para. 9 (f).

<sup>21</sup> Ibid., para. 9 (g).

<sup>22</sup> Ibid., para. 10 (g).

<sup>23</sup> Ibid., para. 17 (b).

<sup>24</sup> Ibid., para. 17 (f).

<sup>25</sup> Ibid., para. 17 (h).

<sup>26</sup> Submission to the Special Rapporteur from Duke University. See also A/HRC/31/58, para. 20; and A/70/438, paras. 5 and 8–9. Regarding social integration or social reconciliation in transitional justice, see A/HRC/36/50, paras. 31 and 72; and A/70/438, paras. 19 and 57.

16. During the expert consultations, the “remedial” component of social inclusion was highlighted, with strong reference made to compensation, which is one of the least implemented provisions of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Trafficking in Persons Protocol). Compensation was discussed particularly in regard to North America and Europe, where significant achievements have been registered, thanks to the work of pro bono lawyers and civil society organizations.<sup>27</sup> Important questions were raised in relation to compensation for moral damage and the lack of common criteria for calculating both moral and material damage for trafficking victims. Another challenge identified was related to the tendency to award “ready-made assistance packages”, on the basis of the assumption that survivors are unable to manage the money awarded. The Special Rapporteur is convinced that depriving trafficked persons of their agency perpetuates a paternalistic approach to anti-trafficking action that needs now to be challenged.

17. Several obstacles to accessing and obtaining compensation were identified. These included the deportation of migrants who were victims of trafficking due to lack of residence status, lengthy judicial proceedings, the lack of a firewall between labour inspectors and migration authorities, lack of confidentiality and of protection measures for victims and witnesses, criminal convictions hampering access to legal remedies, inversion of the burden of proof, and compensation being conditional upon cooperation with criminal proceedings and/or upon the possession of residence permits. The situation is particularly dire for child victims, who are the least likely to obtain compensation.

18. A good practice by the Federation of Agro-Industrial Workers, of Italy, was identified during the expert consultations. The Federation facilitates access to justice for trafficked persons, mainly in cases involving labour exploitation, by sensitizing public prosecutors and police authorities at the local level, as well as by supporting victims by providing them with free transportation and financial means throughout the duration of the legal proceedings. Another innovative advocacy action taken by the Federation is to sensitize Members of Parliament, including through activities in the field, about the need to change public policies.

19. Alternative avenues for compensation other than the criminal law pathway were also discussed, such as civil law and labour law. Private sector grievance mechanisms were also identified as a potential tool for assuring to victims their right to effective remedy. However, the Special Rapporteur is concerned that private sector due diligence efforts in this regard are not effective enough; furthermore, when identification of situations of extreme exploitation occurs, it often results in contracts with non-compliant suppliers being terminated, without any guarantee for workers to be able to seek compensation and find alternative employment.

## **B. Challenges and promising practices regarding the social inclusion of trafficked persons**

### **1. Structural challenges hampering social inclusion**

20. In the current poisonous political climate, the main concern of many governments is to drastically limit or even block migration movements, with little attention paid to the human rights implications of such policies.<sup>28</sup> In this context, social inclusion is being seriously hampered by mass returns and repatriations, including of victims who had already been integrated into the social environment of destination countries, by accessing education and the job market, and learning the local language, among other things. On the other hand, civil society organizations monitoring the social inclusion of returnees in countries of origin have raised concerns about the special difficulties that returnees face when forcibly

<sup>27</sup> See, for instance, the Human Trafficking Legal Center, in the United States of America. See also the La Strada “Justice at Last” project on compensation in Europe, at <http://lastradainternational.org/about-lsi/projects/justice-at-last>.

<sup>28</sup> A/HRC/38/45, para. 65.

returned. It was reported that, in particular, people returning to non-European countries experienced a “cultural clash”, as they felt they no longer belonged to their country of origin and were ready to be re-trafficked in an attempt to fulfil their wish to migrate.

21. Moreover, for those forcibly or voluntarily returning to their country of origin, viable long-term social inclusion options are limited, due to various factors, including unemployment, poor labour market regulations, or austerity measures that result in underfunded, underprioritized or underdeveloped social services. Furthermore, options in many countries are limited by a variety of laws or practices that discriminate on the basis of gender, nationality or other status. A major and underestimated challenge concerns children born out of rape as a result of trafficking. For instance, it was reported that Yazidi women subjected to sexual enslavement by Islamic State in Iraq and the Levant (ISIL) could not register their babies born as a result of rape, because Iraqi law only allows for children to be registered under the name of the father. Since the father would in most cases be an ISIL member, in accordance with Iraqi law, registered children would automatically become Muslim, with no consideration of the mother’s faith. As a result, Yazidi women survivors refuse to register their children, which results in most children becoming stateless and having no access to fundamental rights. In the Middle East, non-governmental organizations (NGOs) have reported considerable challenges in registering the births of migrant children, due to the absence of pathways to legal residency or citizenship.

22. Legislation can also severely affect the possibility for trafficked persons to access remedies: for instance, in some countries, migrants’ work permits are tied to a single employer, with no possibility for workers to change their employer without his or her permission, to report their employer or to claim compensation, without running the risk of falling foul of the law or being otherwise penalized – including through administrative detention – for having become undocumented migrants. Therefore, the Special Rapporteur advocates for the abolition of the *kafalah* system.

23. Other structural challenges relate to a lack of financial resources devoted by the State to long-term services, and to the viability and sustainability, in general, of support programmes, as well as to the lack of monitoring and evaluation in the long term.

## **2. Ensuring survivors’ empowerment and agency through their meaningful participation: a central element for trafficked persons’ social inclusion**

24. The successful and sustainable social inclusion of trafficked persons requires that their needs be carefully and individually assessed at various stages of their recovery. It requires intensive and individualized planning, as some trafficked persons will require more services, support or time than others. The Special Rapporteur is mindful that this individualized approach may be difficult to implement for States. In order to overcome the challenges that it entails and ensure a safe and dignified social inclusion into societies, the Special Rapporteur believes that it is key to engage directly with survivors through an inclusive and participatory process, in the design, implementation and evaluation phases of interventions. Experience shows that peer-to-peer groups led by feminist organizations have been instrumental in victims’ recovery. In particular, the feminist practice of meaningful relationships among women, including survivors, has been, in many cases, a driving factor in trafficked women and girls being able to achieve self-esteem and empowerment and subsequently being able to enjoy free, equal and respectful personal relationships, despite the trauma borne during their exploitation.<sup>29</sup> In some countries, such as Nepal and Thailand, trafficked women have established self-organized groups and have become key actors in anti-trafficking work.<sup>30</sup>

25. Participation by survivors also plays a decisive role in benchmarking, monitoring and measuring social inclusion progress. Furthermore, survivors’ participation in decision-making can stimulate their agency and ensure a victim-centred approach to social inclusion policies, based on what they want for themselves. During the expert consultations, the Special Rapporteur was impressed by the work of Aaprabasi Mahila Kamdar Samuha

<sup>29</sup> Submission to the Special Rapporteur from BeFree.

<sup>30</sup> See, for example, Shakti Samuha, in Nepal, and Live Our Lives Group, in Thailand.

(AMKAS) in Nepal, an NGO made up entirely of women migrant workers, including survivors of trafficking for labour exploitation, especially for domestic servitude, who carry out national and international advocacy work, as well as paralegal and psychosocial counselling, and work for survivors' economic empowerment. They have achieved impressive results in terms of survivors' economic empowerment, by mapping the skills that returnees possess against the demands of the market, and by setting up small collective businesses, taking into account survivors' interests. In order to set up businesses, they created cooperatives out of their savings, where each woman returnee can take a loan to start an activity of her choice at much lower interest rates than those charged by banks, which very often are not keen on giving loans to women. Out of a spirit of mutual trust born of having shared similar exploitative working conditions, women running these cooperatives were able to make them profitable in only six years, breaking all forms of gender stereotype and of stigma associated with their trafficking and exploitation experience.

26. Another interesting practice as regards survivor-led empowerment projects is that of Polaris, an NGO in the United States of America, which has recently launched Survivor Innovation Labs. The project consists of a database of about 200 survivors who are offered a variety of paid consultancies in the anti-trafficking field and who can choose when, where, how often, and on what topics they work. Recognizing that many survivors have no interest in anti-trafficking work, Polaris also works to establish corporate partnerships in sectors such as hospitality, social media, technology and aviation to create scalable survivor-centred employment models. As emphasized by survivors themselves, their participation in anti-trafficking actions should always remain voluntary.

27. In Asia, the Global Alliance Against Traffic in Women network facilitates peer support groups of survivors who advise trafficked persons still in their recovery phase on various issues related to their integration process. This network of NGOs has also raised concerns around the risk of dependency that support programmes can create. Service providers need to strike a balance between providing assistance and building autonomy. It is also important to have standards of care and case supervision which can identify and address issues related to victims' dependency on care providers, as they arise. Having come from a position of heavy dependency on traffickers, participation and decision-making power are new models of behaviour for trafficked persons, towards which they are often, at least initially, ambivalent.

28. Peer-to-peer support has also been successful in promoting survivors' integration in the Netherlands. The NGO Humanitas has been working with a system of "buddies" for trafficked persons, especially victims of sexual exploitation. The buddies are volunteers, often survivors of trafficking themselves. They serve as guides for navigating society and the labour market in the Netherlands, and also, having experienced trafficking themselves, as psychological support. This gives two-way assistance to victims of trafficking to help them find their place in the host society.

29. Noting with concern that civil society is facing increasing challenges in almost all countries of the world today, the Special Rapporteur recalls that civil society plays a formidable role in this field, as it offers grass-roots experience, expertise and flexibility. She underscores that it can also play an important role in sensitizing families and communities to understand and accept survivors.

### **3. Restoring trafficked persons' dignity and reputation**

#### **(a) Combating stigma, discrimination and xenophobia**

30. Escaping from trafficking is a critical moment for victims. Yet, returning to "normal" life is an even more complex, long and challenging process for trafficked persons, who, in some cases, were already marginalized prior to their trafficking experience. In many contexts, the first steps following trafficking are accompanied by a set of challenges that directly affect victims' dignity and reputation. Victims of trafficking for the purpose of sexual exploitation, mainly women and girls, may face stigma related to the nature of the experience they went through. Others may have been exposed to HIV/AIDS and other sexually transmitted diseases, which may increase their marginalization. It is frequent for

trafficked persons to face negative and judgmental reactions from their family members and/or their community, who may blame them for an association with prostitution or for failed labour migration and unfulfilled expectations. Repatriation can also create tensions within families or communities, as the victims' behaviours may be neither understood, nor accepted, leading to further interpersonal tensions and possibly social exclusion. Overcoming discrimination and stigmatization related to the perception that society may have of trafficking victims, and keeping in mind a gender-sensitive approach when addressing these factors, is paramount in order to achieve their social inclusion. Similarly, assisting the person's family is essential in order for victims to regain self-acceptance, self-esteem and motivation, while at the same time ensuring the survivor's independence and agency. Social inclusion thus encompasses not only survivors' empowerment, but also their acceptance by their families and society as a whole. In this regard, faith-based organizations play a pivotal role in reducing stigma associated with trafficking in persons and in facilitating the social inclusion of trafficked persons in their families, communities and society as a whole.<sup>31</sup>

31. In addition to stigma, migrants who are victims of trafficking may also face xenophobia, intolerance and intersectional discrimination. States' obligations to prohibit discrimination on any grounds, including race, sex, gender, sexual orientation and gender identity, ethnicity, or any other status, such as migratory status or the status of victim of trafficking, should be enforced as a prerequisite to trafficked persons' social inclusion. The Special Rapporteur stresses that States, in cooperation with civil society, should provide trafficked persons with comprehensive and easily accessible and understandable information about assistance options at all times in their recovery. She notes with interest programmes such as the one provided in Germany through which refugees, including trafficking victims, can have access to migration counselling and to integration courses, generally consisting of 600 hours of language training and 100 hours of cultural orientation. Cultural outreach allows trafficked persons to become acquainted with their rights, with cultural differences that may exist with their home countries, and with the means that may contribute to their social inclusion.

32. IOM has noted that, in certain contexts, limited support systems and uncertain livelihoods can lead to perceived competition for scarce resources, contributing to community instability and making reintegration and social inclusion difficult.<sup>32</sup> In order to address this challenge, the Special Rapporteur echoes the recommendations made by the Special Rapporteur on the human rights of migrants, who noted in his recent study on the return and reintegration of migrants that: "Reintegration should be addressed at the individual, family and community levels ... Reintegration programmes should link with national, regional and international development plans and include local economic development strategies. Prior to the return of migrants, an assessment of the labour market, institutional capacities, prevailing socioeconomic and environmental conditions, services and infrastructure should be carried out."<sup>33</sup>

33. Political, religious and community leaders have a key role to play to combat stigma and discrimination. For instance, it was reported that Yazidi survivors returning to Iraq after having been held captive by ISIL expressed their desire to meet their spiritual leaders and benefit from a "purification" ceremony with the aim of bringing back their initial Yazidi faith and "cancelling" forced conversion to ISIL ideology. An NGO, Yazda, took an innovative and survivor-led approach in this regard, by helping to implement these ceremonies and organizing around 100 trips to Lalish, the holiest Yazidi place, for around 500 survivors. This highly therapeutic ritual, coupled with public statements by the highest Yazidi spiritual leader reassuring communities that "those rescued remain pure Yazidis and everyone should cooperate so that victims can return to their normal lives and integrate into society" contributed substantially to their social inclusion.<sup>34</sup> In the same vein, the initiative

<sup>31</sup> See Caritas Internationalis, Talitha Kum, Churches' Commission for Migrants in Europe, and World Vision International, among others.

<sup>32</sup> Submission to the Special Rapporteur from IOM.

<sup>33</sup> A/HRC/38/41, paras. 58–59.

<sup>34</sup> Submission to the Special Rapporteur by Yazda.

of Oba Ewuare II of Benin, the traditional leader of Edo State, the Nigerian State most affected by international trafficking, was equally successful in lifting trafficking victims out of the “oath of secrecy” and placing a curse on traffickers. This action produced unprecedented results and proved to be extremely impactful on the lives of thousands of women and girls in Nigeria and abroad.

**(b) Ensuring non-criminalization of trafficked persons**

34. In some countries, victims experience detention for offences, such as pickpocketing, smuggling or drug trafficking, that they were forced to commit as a result of being trafficked. They also experience detention, when trafficked for the purpose of sexual exploitation, in countries where prostitution/sex work is illegal.

35. Often, victims’ perceived or actual involvement in an illegal behaviour while trafficked results in stigma, which can have long-term adverse impacts. An arrest record, or worse, a criminal conviction, can cause lifelong restricted access to basic services and needs, such as employment, housing, a residence permit, and bank loans, even long after they have escaped their traffickers. In many cases, educational, housing and employment opportunities require a background check, which includes an assessment of the criminal and/or employment history of an individual. Failing to clear a criminal records check constitutes an insurmountable barrier for survivors. Trafficked children, who may have been charged with offences related directly to their having been exploited, such as for pickpocketing or cannabis cultivation, may also find it difficult to return to school, due to discrimination and stigma arising from criminal convictions.

36. According to Recommended Principles and Guidelines on Human Rights and Human Trafficking, published by the Office of the United Nations High Commissioner for Human Rights, “trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons”. The Special Rapporteur regrets that this principle is rarely implemented by the competent authorities in States, and advocates for its recognition and enforcement. In this respect, she welcomes the adoption in Montenegro of new guidelines on non-punishment of victims of trafficking in human beings for involvement in illegal activities that they were compelled to take part in in the context of being trafficked.

**4. Guaranteeing trafficked persons’ safety and stability**

**(a) Providing trafficked persons with access to asylum or residence status**

37. The trauma associated with trafficking often endures even after a victim has reached a safe environment. In some cases, victims are returned to the situation that they were in prior to being trafficked, that is to say, to the same social and economic conditions that served as push factors. Ensuring that no victim is returned to a situation where he or she may be at risk of being re-trafficked is key. In this context, it is necessary that trafficked persons, whether they return to their country of origin or integrate into transit or destination countries, feel safe to live an independent life. For that purpose, obtaining residence status is a primary prerequisite, without which a survivor remains vulnerable to being re-trafficked. Without residence status that formalizes their stay in a particular country, survivors may find it difficult to access services and accommodation, or to register a business. This also applies to children who are born out of rape as a result of trafficking, given that their right to birth registration is a precondition for the enjoyment of all other rights. Consular offices can play an important role in providing identity documents to victims of trafficking. However, NGOs have reported several challenges faced by survivors of trafficking and by other vulnerable migrants in accessing consular services; some victims of trafficking have reported being unable to access consular services on account of stigma, migration bans and heavy caseloads.

38. In line with article 7 of the Trafficking in Persons Protocol, many States grant temporary residence to victims of trafficking. In most cases, temporary residence permits granted to trafficked persons allow them to work. However, a serious concern is that

temporary or permanent residence permits – as well as other social inclusion measures – are often conditional upon victims’ cooperation with the criminal justice system and upon formal identification as victims by law enforcement authorities. In this regard, existing non-conditional national systems provide examples of best practices to be replicated elsewhere. Moreover, the pilot/temporary regulation currently in place in the Netherlands on the plausibility of victimhood, which can facilitate – if there is no successful court case – trafficked persons’ access to support and residence, is a promising practice.

39. Some States are increasingly integrating anti-trafficking measures into asylum procedures, by granting asylum or, where appropriate, subsidiary protection, to potential victims who would face a risk of persecution, torture or other irreparable harm eventually resulting in re-trafficking if returned to their countries, and at the same time referring them to anti-trafficking services, with the consent of the person concerned.

40. The Special Rapporteur also shares the concern expressed by the Secretary-General that even when trafficked persons have the right to receive temporary residence and work permits, the processes are often lengthy and difficult to navigate, which impedes their access to services.<sup>35</sup> She also notes that the duration of residence permits can vary greatly from one country to another but is generally too short.

**(b) Ensuring trafficked persons’ right to family reunification**

41. Another important challenge to social inclusion of trafficked persons relates to their ability to reunite with their families, if they wish to do so. In Costa Rica, article 50 of Law 9095/2013 explicitly refers to family reintegration, community reintegration, education, and work and economic reintegration of victims and their dependents, and can be used by survivors to reunite with their family. In the United States of America, T visa holders have the opportunity to obtain non-immigration status for certain family members in the form of derivative T visas.<sup>36</sup> In Togo, trafficking victims returning forcibly or voluntarily to the country receive support for their return, including in terms of family reunification.

42. The Special Rapporteur acknowledges that victims of trafficking have, in some cases, escaped from situations of violence and exploitation within their families and communities and may not wish to return to the source of their trafficking cycle. Therefore, trafficked persons’ right to reunite with their families must be implemented only if they wish it to be. In that case, family reunification must be considered a central component of their social inclusion in society.

**(c) Guaranteeing trafficked persons’ access to long-term medical services and safe and affordable accommodation**

43. Physical, mental and emotional well-being is fundamental in order for survivors to rebuild their lives. Trafficking exposes victims to an array of health problems. While short-term psychosocial support and emergency medical care is provided to victims in most countries, access to long-term and affordable medical care, especially as regards psychiatric support, is missing almost everywhere. In addition, medical care is often linked to stay in a shelter and is geared towards a specific type of victim, mostly women and girls trafficked for sexual exploitation.<sup>37</sup> International law requires that States provide trafficking victims with the means necessary for their rehabilitation and recovery. These must include medical and psychological care, as well as legal and social services, such as shelter, counselling, health services and linguistic support.<sup>38</sup> The Centre for Studies on Leadership and

<sup>35</sup> A/73/263, para. 53.

<sup>36</sup> A/HRC/35/37/Add.2, para. 65.

<sup>37</sup> Roberto Forin and Claire Healy, *Trafficking along Migration Routes to Europe: Bridging the Gap between Migration, Asylum and Anti-Trafficking* (International Centre for Migration Policy Development, 2018); and Elena Petreska, “Reintegration of victims of trafficking in Bulgaria: supporting social inclusion and economic empowerment” (International Centre for Migration Policy Development policy brief, May 2018).

<sup>38</sup> A/69/269, para. 13. See also Committee on Economic, Social and Cultural Rights, general comment No. 23 (2016) on the right to just and favourable conditions of work, para. 50; Committee on the

Promotion of Human Rights, in the Democratic Republic of the Congo, reported that lack of medical care, psychosocial support and social protection measures for victims of trafficking, especially for children who had been forcibly recruited as child soldiers and for victims of sexual slavery, weakened the social tissue of a society and hampered the consolidation of peace, as it affected the community's resilience and willingness to look for peaceful and durable solutions.

44. The provision of safe, satisfactory and affordable accommodation is another important step to ensure survivors' autonomy and social inclusion. Two organizations in Poland – La Strada, the Foundation against Human Trafficking and Slavery; and Po MOC, the Mary Immaculate Association for Women and Children – run the National Intervention and Consultation Centre for Victims of Trafficking, which, by means of government funding, provides every victim with a case manager who assists them in various ways, such as the preparation of documents required to regularize residence, and searching for accommodation and employment. In Austria, the Government supports LEFÖ, an NGO that provides women victims of trafficking with housing arrangements in residential buildings. In practice, survivors have regular neighbours, communal spaces and shared responsibilities. Counsellors from the organization accompany women and girls in this process, including by discussing how to budget for household expenses, how to use the transportation system, and where to buy what, and how, with the ultimate aim of facilitating their social inclusion. Similarly, On the Road is an NGO that sets up residential accommodation options for trafficked persons in Italy, to ensure their full autonomy as the final step in the social inclusion process.<sup>39</sup> While very often specialized shelters are able to provide a wide range of medical and social aid, this approach needs further development to enable trafficked persons to enjoy different types of accommodation, depending on their recovery status. The above-mentioned practices offer flexible arrangements that can be easily adapted to survivors' needs in the long term. Unfortunately, in some countries, accommodation or access to services is limited to individuals who have regular status in the country.

45. It was also reported that shelters for trafficked persons are almost exclusively designed for women and children. On this matter, challenges have been identified regarding the lack of shelters for trafficked men. Serious challenges also exist concerning the choice of the most appropriate accommodation for transgender persons who have been trafficked.

**(d) Developing recreational activities**

46. Recreational activities can be particularly effective in achieving social inclusion. Several promising practices exist in this field, though most of them are carried out by civil society organizations who heavily rely on donors' funding. In the United Kingdom of Great Britain and Northern Ireland, the Home Office's Child Trafficking Protection Fund supports a project that provides therapeutic group work for young people who have been trafficked internally. The therapy is designed to increase young people's ability to develop healthy relationships, team skills and confidence, with the overall aim of increasing resilience and preventing re-trafficking. This model also includes activities such as horse riding and horse care as a creative way of supporting young people healing from their trauma. Similarly, the Helen Bamber Foundation provides a range of activities to its beneficiaries, including English language and computing classes, as well as drawing, painting, photography, football and singing groups. An essential part of the programme has been to develop links with local colleges, universities and businesses that provide opportunities for survivors to improve the skills they need in order to re-enter the workforce. In the Republic of Korea, the Ministry of Gender Equality and Family offers victims of sexual exploitation a wide range of programmes, which include art, music, dance and play therapies, that have reportedly led to positive results.<sup>40</sup> In Norway, the Christian

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Elimination of Discrimination against Women, general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, para. 33; and A/HRC/36/43, para. 35.

<sup>39</sup> Submission to the Special Rapporteur from On the Road.

<sup>40</sup> A/70/222, para. 58.

Intercultural Work organization teaches Norwegian classes, and organizes inclusion activities, such as swimming lessons and walks.

47. Recreational activities are particularly important for children, who often require long-term psychological care and counselling on interpersonal relationships based on mutual respect, non-violence and non-stereotyped gender roles. In Greece, the Ministry of Labour, Social Security and Social Solidarity has developed the new Guardianship Law, adopted in July 2018, which promotes the protection and social inclusion of unaccompanied minors. The guardians are professionals who receive training on how to sensitively support children in all their activities. In Nigeria, the Youth Resource Centre run by the NGO Idia Renaissance provides skill acquisition programmes, but also health and social counselling, including on HIV/AIDS, in safe and confidential settings, as well as facilities such as indoor games. The innovative aspect of such a project is that it functions on the basis of mixed groups of young people composed both of returnees, including trafficked persons, and of those who are willing to migrate and could become potential victims. The aim is to boost youth economic empowerment, but also prevention and awareness-raising, by avoiding stigma and discrimination through peer-to-peer experience-sharing.

## **5. Supporting trafficked persons' economic empowerment**

### **(a) Promoting trafficked persons' economic opportunities**

48. For many survivors, access to employment and hence to economic independence is the most important aspect that can lead to their social inclusion. Economic empowerment is of paramount importance for the psychological well-being of individuals, as it increases self-esteem and self-fulfilment, contributing to social recognition and inclusion.

49. The Special Rapporteur is mindful that finding a decently paid job can be particularly difficult for trafficked persons. She regrets that, too often, vocational programmes provided to them are not in line with their needs and skills, nor are they matched to the actual labour market in the community. These programmes are often built around activities such as sewing, knitting, weaving, hairdressing or cooking, without much consideration being paid to the interests of the persons concerned or the reality of the labour market. Some civil society organizations have also noted that these activities reinforce existing gender stereotypes, while others have observed that they are jobs that usually generate low levels of income, which may not be conducive to social inclusion and may result in re-trafficking, especially where survivors have to support family members.

50. The Special Rapporteur is also convinced that States should work more closely with the private sector. Public-private partnerships may not only take the form of jobs, but may also include vocational and financial training or other activities to reinforce survivors' integration in the local social fabric. Mindful that previous experiences have shown that some employers of survivors have behaved abusively after learning about their background, the relevant authorities should carry out close monitoring to prevent revictimization.

51. In terms of private sector responses, businesses should make sure that immediate assistance programmes as well as long-term assistance programmes to address cases found in the course of their operations, or those of their suppliers, are well coordinated with national and local authorities and with civil society. Businesses should be encouraged to work alongside their suppliers to transform exploitative working conditions and practices into a safe working environment that offers guarantees of non-repetition and opportunities for survivors. Only in cases of extreme exploitation or when a subcontractor has failed to comply with the suggested changes should contracts be terminated, and viable alternative solutions for workers should be immediately implemented. In this regard, interesting guidance can be found in the IOM Remediation Guidelines for Victims of Exploitation in Extended Mineral Supply Chains.

52. Demonstrating to the family and the community the benefits of survivors of trafficking getting decent work is another aspect that is fundamental to preventing re-trafficking. An interesting example of economic empowerment is that of the NGO Annie Cannons, which focuses specifically on survivors' professional development and full-time employment. The organization provides survivors with a six-month training programme

where they spend four hours a day, four days a week, engaging in professional skills-building and technology training in the form of coding boot camps. As survivors work through the training programme, they are given the opportunity to take on paid projects with external clients. As they continue to build their skills and expertise, their project portfolios increase in complexity and the income they earn rises. Another critical component in the model is the partnerships that are built to ensure that each beneficiary has access to comprehensive service provision, such as for childcare, therapy, and legal advocacy. Upon completion of the programme, beneficiaries move on to full-time employment.

53. The Special Rapporteur also welcomes the efforts of the Associazione Comunità Papa Giovanni XXIII, which supports women survivors in accessing the *haute couture* dress production in some parts of Italy. The Special Rapporteur was also positively impressed by the work of IOM in Ethiopia, which has recently faced the emergency of mass returns – estimated at 200,000 persons in 2018 alone – of vulnerable Ethiopian migrants, including trafficked persons, from Saudi Arabia. In order to support the reintegration of vulnerable returnees, IOM has been liaising with the private sector and forged partnerships with private firms to secure employment opportunities. This is the case of Penda Manufacturing PLC, a paper recycling company in Addis Ababa, with which IOM entered into an agreement. In cooperation with the Addis Ababa City Administration, the company collects paper from 7,000 micro-enterprise collectors in the city. As part of this agreement, the company has been collecting and recycling waste paper from IOM – thereby reducing that organization’s ecological footprint – and has so far employed 25 female Ethiopian returnees from Saudi Arabia, who are running mobile paper waste deposit sites, collecting waste paper for which Penda Manufacturing PLC compensates them. The Special Rapporteur also commends the IOM community-based reintegration programmes implemented by civil society organizations in Nigeria, such as the Committee for the Support of the Dignity of Women and the Society for the Empowerment of Young Persons, in areas heavily affected by returns, whereby, in consultation with the community, a mapping of business opportunities available is conducted, and community businesses, such as for the production of pineapple juice and other fruit juices, for palm oil and vegetable oil processing and for cassava processing, are being set up in Edo and Delta States. These initiatives are likely to reduce the stigma associated with returns, by enriching entire communities at risk and providing socioeconomic reintegration opportunities.<sup>41</sup>

54. The Special Rapporteur was also impressed by the work of SPARK, an NGO in Burundi, which has adopted the 3x6 approach developed by the United Nations Development Programme for the social inclusion of migrant returnees. Once vulnerable persons are identified, they are enrolled in rapid income-generation projects, which always include a compulsory savings component deposited in a savings account at a local microfinance institution. After the completion of cash-for-work projects, they are encouraged to join hands with their peers, drawing on their three months’ savings, to begin joint income-generating activities. In order to encourage collective investments, each group generates an additional investment that equates to three times the amount of the savings. Prior to the approval of the business plan, a feasibility study is conducted to assess market opportunities in the selected area of operations. From 2015 to the present time, the project has benefited 3,000 returnees. Such an approach could be replicated on a larger scale.

55. Another innovative approach is that adopted by the NGO On the Road, in Central America (Costa Rica, El Salvador, Guatemala and Mexico). On the Road aims to reach out to the most marginalized communities for the creation of “street businesses” (such as repairing bicycles, selling food or selling other merchandise, in the street). As part of this project, the organization carries out a market analysis and provides survivors with appropriate business plans, as well as with legal, financial and promotional skills.<sup>42</sup>

<sup>41</sup> Submissions to the Special Rapporteur from the Society for the Empowerment of Young Persons and IOM.

<sup>42</sup> Submission to the Special Rapporteur from On the Road.

56. Since March 2017, the Bright Future programme, an employment programme developed by the Co-operative Group (Co-op) together with charity partners, in the United Kingdom, has been providing survivors with a pathway to paid employment. The programme offers survivors a four-week paid work placement leading to a non-competitive interview. If both elements are successful, the candidate is offered a full-time job. Fourteen businesses across various sectors of the economy have so far signed up to the programme. More than 50 survivors are said to have taken part in the Bright Future programme so far, and it is envisaged that up to 300 will have secured placements through the programme by 2020.

**(b) Promoting trafficked persons' education, including their professional and vocational training**

57. Accessing the job market may be difficult for trafficked persons lacking education. Promoting survivors' economic empowerment requires vocational training, skills certification, job placement, microcredit, and entrepreneurship business plans, as well as soft skills counselling – such as on how to prepare a résumé or prepare for a job interview, how to interact with employers and colleagues, and how to identify potentially abusive job advertisements.

58. As an innovative model of social inclusion, the Special Rapporteur has been impressed by the work carried out by the Free a Girl NGO, in the context of the School for Justice project implemented in India and Nepal. In India, the project is carried out together with its partner Sanlaap, and in Nepal with its partner Sasane. The project provides survivors of trafficking for sexual exploitation with courses in the fields of law, social work, police work and journalism, with a view to training them to become public prosecutors and lawyers and to work in other related professions. Around 15 students have enrolled in the first two Schools for Justice operating in the two countries, and the NGO now aspires to open more schools. This unique project empowers beneficiaries professionally and gives them the opportunity to play a significant role in fighting impunity. In the Democratic Republic of the Congo, the Centre for Studies on Leadership and Promotion of Human Rights carries out laudable work despite enormous challenges: it reports having provided access to education for 50 girl survivors of sexual slavery and 30 former child soldiers per year.<sup>43</sup> Projects of this kind should be replicated on a larger scale and more funds should be invested into providing scholarships for university, as not all survivors wish to be employed after being trafficked but would rather invest in their formal education, especially in cases where they were compelled to abandon school as a result of being trafficked and were never given the chance to complete their studies afterwards.

59. In Brazil, the International Labour Organization supports a project that offers professional training for individuals in high-risk situations or rescued from slavery-like working conditions, which is followed by work opportunities in different sectors, such as agriculture and construction.<sup>44</sup> In Greece, the AB Vassilopoulos supermarket chain conducts vocational training for survivors of trafficking, with the aim of either employing them or referring them to other enterprises. In Chile, the authorities work in collaboration with the Catholic Institute of Migration and the NGO Raíces to provide advice, support and liaison along with private companies to get survivors into employment. In countries of the Council of the Baltic Sea States, a project that began in 2015 involves municipalities identifying and integrating trafficked persons into society, through specific guidelines, including in terms of job placement.<sup>45</sup>

<sup>43</sup> Submission to the Special Rapporteur from the Centre for Studies on Leadership and Promotion of Human Rights.

<sup>44</sup> See [www.ilo.org/global/about-the-ilo/newsroom/features/WCMS\\_506150/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_506150/lang--en/index.htm).

<sup>45</sup> See [www.cbss.org/wp-content/uploads/2016/03/Guidelines-for-Municipalities-ENG.pdf](http://www.cbss.org/wp-content/uploads/2016/03/Guidelines-for-Municipalities-ENG.pdf).

### III. Conclusions

60. Promoting social inclusion of trafficked persons is an integral part of States' obligations, as it is rooted in the due diligence principle, and is linked with the right of victims of trafficking to effective remedy. The use of the term "social inclusion" instead of "reintegration" or "rehabilitation" is aimed at underscoring that social inclusion is not limited to reintegration after return or repatriation, and is not affected by a moralistic approach to sexual exploitation. The term "social inclusion" is the opposite of social exclusion – the latter being one of the main root causes of trafficking – and indicates the objective of survivors' full participation in society. At the same time, it conveys the idea of a process, requiring innovative and transformative projects and activities such as skills acquisition, labour market opportunities mapping and job creation. Social inclusion should be taken into consideration by State authorities as the ultimate goal of the whole anti-trafficking action, when designing and implementing protection measures for trafficked persons, which should not be limited to short-term assistance but rather should be aimed at achieving long-term viable solutions for survivors of trafficking.

61. Regaining physical and psychological integrity, self-esteem and independence, for people who have been subjected to serious human rights violations, is a long road. This is all the more true for trafficked persons, who have often faced physical and psychological violence, long-term social isolation, emotional distress, and deprivation of liberty and self-determination. However, existing protection measures in most countries are not consistent with the objective of promoting trafficked persons' social inclusion. Most States provide trafficking victims with services that not only are designed for short-term assistance but also are conditional upon victims' cooperation with the criminal justice system. On the contrary, from a human rights standpoint, and with a view to promoting social inclusion, services and residence status should be not only non-conditional, but also should be disconnected from the very existence of criminal proceedings, as trafficked persons are entitled to effective remedies regardless of whether perpetrators have been prosecuted or punished.

62. Structural challenges, such as restrictive and xenophobic migration policies, discriminatory laws and policies, poorly financed social protection services and inadequate resources allocated for long-term solutions can severely hamper long-lasting and sustainable social inclusion measures. Lack of identification of trafficked persons at an early stage, including in transit countries and in places of first arrival of mixed migration flows, are among the major challenges highlighted by practitioners in the field.

63. The Special Rapporteur is convinced that long-term measures aimed at empowering survivors and enabling them to live independently in a safe environment can be effective in preventing their further victimization and serve to prevent trafficking and re-trafficking. Solutions need to be gender-sensitive, child rights-based and individually designed, not affected by traditional gender roles, based on survivors' needs and aspirations, and receive dedicated government funding. Active and informed participation and empowerment of survivors is of paramount importance. Cooperation with the private sector should be more actively explored and be implemented effectively. Private sector grievance mechanisms should be able to provide trafficked persons with ad hoc responses specifically tailored to each of the workers' situation and needs.

64. To ensure social inclusion of trafficked persons, States have an obligation to take effective measures to eradicate discrimination and xenophobia, and to reduce social stigma linked with their association with prostitution and/or with the failure of their migration project. Moreover, trafficked persons should not be detained, charged or prosecuted for their irregular entry or stay in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons. States must provide them with residence status potentially leading to their regularization in the country, and

abstain from administrative detention and deportation. Detention of children must always be banned.

65. States should also ensure trafficked persons' family reunification if the trafficked person concerned so wishes, facilitate access to long-term medical services, safe and affordable accommodation, formal education, professional and vocational training and job opportunities, as well as recreational activities, and promote their economic empowerment in innovative and transformative ways. In most parts of the world, social inclusion of survivors of trafficking is – to use a phrase of civil society organizations – “still a dream”. However, innovative and transformative solutions highlighted in the present report show that it can – and should – become a reality everywhere.

## **IV. Recommendations**

### **A. To Member States:**

66. With regard to the legal and policy framework and related structural challenges to social inclusion:

(a) Recognize that the social inclusion of trafficked persons into societies, be it in countries of origin, transit or destination, constitutes an integral part of States' obligations under the due diligence standard and the right to effective remedy;

(b) Adopt, revise and implement legislation and policies in order to ensure that survivors' right to remedy, including compensation, is not conditional upon victims' cooperation in criminal proceedings, upon the initiation or the outcome of criminal proceedings or upon the possession of legal residence status, paying special attention in this regard to child victims of trafficking;

(c) Eradicate stigma, gender-based discrimination, xenophobia, racism and discrimination on any grounds, as major factors hampering trafficked persons' social inclusion, especially in countries of transit and destination;

(d) Ensure that social inclusion is not hampered by restrictive migration policies in countries of destination, and ensure that no decision on return or repatriation is adopted without a previous assessment of the level of integration of the person in the country and of the risk of re-trafficking in case of return or repatriation, in line with the Global Compact for Safe, Orderly and Regular Migration;

(e) Ensure that, in line with a human rights-based approach, trafficked persons are granted non-conditional residence permits, also taking into account humanitarian considerations;

(f) Ensure that the competent asylum authorities are trained to identify indications of trafficking and to take them into due account as grounds for asylum or – where appropriate – subsidiary protection, and simultaneously ensure the referral of persons so identified to anti-trafficking services, with the consent of the person concerned;

(g) Revise any legislation or policies hampering social inclusion, including policies tying workers to a single employer, or preventing equal access to long-term empowerment measures, especially in respect of trafficked women and girls and lesbian, gay, bisexual and transgender persons; and adopt appropriate policies to ensure the birth registration of children born out of rape as a result of trafficking;

(h) Ensure that countries of origin, transit and destination envisage viable long-term measures aimed at social inclusion when designing anti-trafficking policies;

(i) Provide appropriate funding and specialized staff for social protection services, including for specific services required for trafficked persons, and allocate adequate funding to civil society organizations implementing social inclusion projects;

(j) Ensure that monitoring mechanisms are in place after trafficked persons have accessed services, with a view to assessing to what extent their social inclusion process has been successful.

67. With regard to survivors' empowerment:

(a) Allocate adequate resources to empower survivors of trafficking to become agents of change within their families and communities;

(b) Include survivors in the design, implementation and evaluation of all anti-trafficking interventions aimed at social inclusion, taking into account the fact that their participation must take place on a strictly voluntary basis;

(c) Ensure that a transformative perspective guides services for survivors of trafficking, with a view to them achieving full independence and empowerment.

68. With regard to trafficked persons' access to empowerment measures in the long term:

(a) Combat stigma against trafficked persons for association with prostitution and/or failed migration projects, including in cooperation with civil society organizations, particularly women's rights groups, trade unions, traditional and religious leaders, faith-based organizations and the private sector;

(b) Provide trafficked persons with comprehensive and easily accessible information about protection services in a language they understand and at all stages of their recovery, in cooperation with civil society;

(c) Ensure that the social inclusion of trafficked persons is non-conditional upon the initiation or the outcome of criminal proceedings, and takes place irrespective of the possession of legal residence status;

(d) Ensure that trafficked persons are not criminalized, prosecuted or detained – and remove any criminal records – for unlawful activities in which they may have been involved as a direct consequence of their trafficking situation, and also to enable them to access health care, accommodation, education, the job market, social security and bank loans, among other things;

(e) Ensure trafficked persons' access to long-term medical services, including psychological and psychiatric services;

(f) Ensure trafficked persons' family reunification, if they so wish, and their residence status, as essential prerequisites for their social inclusion;

(g) Provide trafficked persons with viable alternatives to exploitative conditions, by facilitating their access to the labour market, in cooperation with the private sector, in order to prevent further exploitation and re-trafficking;

(h) Adopt a gender-sensitive and child rights-based approach in all phases of the social inclusion process, with particular consideration for the child's right to be heard; and design social inclusion programs for children, including unaccompanied and separated children, who are transitioning to adulthood;

(i) Ensure that trafficked persons are not only provided with temporary shelter, but are also provided with the opportunity to access safe and affordable independent accommodation with no discrimination of any kind, giving due consideration to the specific needs of men and of transgender persons;

(j) Invest more effectively in public-private partnerships in emerging sectors that could offer viable employment opportunities to survivors, such as through computer literacy, microcredit, financial management, foreign language learning, agriculture and food processing, and community services;

(k) Consider reforming consular offices' practices, by, inter alia, providing specialized training and resources to staff, to ensure adequate access by and support

for trafficked persons and other vulnerable groups, including by providing identity documents.

**B. To civil society organizations, international donors, the private sector and other relevant stakeholders:**

69. Civil society organizations should consider trafficked persons' right to safety as being of paramount importance, by respecting their privacy, in line with the "do no harm" and confidentiality principles, in all phases of their social inclusion process.

70. Civil society organizations should avoid secondary victimization and revictimization of trafficked persons in their care, by, inter alia, setting up accountability mechanisms to monitor such cases.

71. International donors should partner more effectively with local civil society organizations, and should commit more to supporting innovative and non-traditional models of social inclusion.

72. The private sector should be more robustly engaged in the fight against trafficking, including with regard to the social inclusion of trafficked persons, by, inter alia, ensuring that they have meaningful access to effective remedies and alternative employment opportunities when cases of trafficking and/or severe exploitation are detected, including in companies' supply chains.

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