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Visite au Tadjikistan

Rapport de la Rapporteuse spéciale sur la traite des êtres humains, en particulier les femmes et les enfants, Siobhán Mullally* **

Résumé

La Rapporteuse spéciale sur la traite des êtres humains, en particulier les femmes et les enfants, a effectué du 7 au 16 décembre 2021 une visite au Tadjikistan, pays où l'émigration de main-d'œuvre est importante. Elle a examiné les mesures prises pour prévenir la traite à des fins de travail forcé et pour protéger les droits des travailleurs migrants. Elle salue les efforts déployés par le Tadjikistan pour promouvoir une migration sûre.

La Rapporteuse spéciale a constaté qu'il fallait de toute urgence prendre des mesures pour s'attaquer à l'inégalité entre les sexes et pour faire en sorte que les droits des travailleuses migrantes, en particulier des travailleuses domestiques migrantes, soient effectivement protégés, et que soient promues des possibilités de migration sûre pour les femmes. Elle se dit préoccupée par la stigmatisation des femmes victimes de la traite à des fins d'exploitation sexuelle et par la prévalence de la discrimination à l'égard des femmes et des stéréotypes de genre préjudiciables. Elle félicite le Tadjikistan pour sa tradition d'accueil des réfugiés afghans, mais s'inquiète des conséquences des récentes fermetures de frontières et de la suspension de l'enregistrement des demandeurs d'asile en provenance d'Afghanistan.

* Il a été convenu que le présent rapport serait publié après la date normale de publication en raison de circonstances indépendantes de la volonté du soumetteur.

** Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit, joint en annexe, est distribué dans la langue originale et en russe seulement.



Annex

Report of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, on her visit to Tajikistan

I. Introduction

1. Following an acceptance of her visit request by the Government of Tajikistan, the Special Rapporteur conducted an official visit to the country, from 7 to 16 December 2021, to assess the situation of trafficking in persons, especially women and children, and to identify the progress made and remaining challenges in combating trafficking in persons and protecting victims/survivors.

2. The Special Rapporteur would like to express her sincere gratitude to the Government for accepting the visit request and for the cooperation extended to her during the visit. In her 10 days in Tajikistan, she had exchanges with a number of ministers and government officials from the Ministry of Labour, Migration and Employment, the Ministry of Education and Science, the Ministry of Health and Social Protection of the Population, the Ministry of Justice, the Ministry of Internal Affairs, the Committee on Women and the Family, the Committee for Youth and Sport Affairs and the National Legislation Centre. She also met with representatives of the Supreme Court and the Office of the Ombudsperson and staff of the Tajik State University.

3. In addition to visiting Dushanbe, the Special Rapporteur visited the border area with Afghanistan, specifically the border point of Panji Poyon, and met with border guards. She also visited the city of Bokhtar. The Special Rapporteur met with representatives of civil society organizations and trade unions and with lawyers. She also held discussions with the resident coordinator, representatives of the United Nations agencies, funds and programmes and the Organization for Security and Cooperation in Europe (OSCE) and members of the diplomatic community present in Tajikistan.

4. The Special Rapporteur regrets that the late acceptance of the country visit request, only three working days prior to the official commencement date, posed difficulties in finalizing the programme for the visit. In addition, she regrets that meetings did not take place with representatives of the Office of the General Prosecutor and the State Committee of National Security, despite the repeated requests for such meetings made by the Special Rapporteur in advance of the visit. She regrets that a visit to the State-run shelter for victims of trafficking in persons was not facilitated during her stay in Dushanbe and that the request to visit the institution hosting the children repatriated from Iraq was not granted.

II. Context and legal framework

5. The Special Rapporteur welcomes the commitment of the Government to achieving the Sustainable Development Goals and its support of objective 10 of the Global Compact on Safe Orderly and Regular Migration, under which States committed to prevent, combat and eradicate trafficking in persons in the context of international migration.

6. Tajikistan is primarily a country of origin for victims of trafficking in persons. Migrant workers departing Tajikistan are particularly at risk of trafficking. Such risks have resulted in a range of prevention measures, which have been focused in particular on risks of forced labour.

7. It is estimated that remittance revenues that are sent by Tajik migrants in the Russian Federation to their homes in Tajikistan are equal to 30 per cent of the gross domestic product of Tajikistan. Kazakhstan, the Russian Federation and Turkey are the main countries of destination for Tajik workers. Migration remains predominantly seasonal and concentrated in agriculture and construction activities in the Russian Federation from April to October. Tajiks enjoy visa-free entry into the Russian Federation and can stay for 90 days, including

for short-term work. A recent trend, and one that may increase the risks of exploitation, is that an increasing number of Tajik migrant workers come from non-Russian speaking households.

8. Limited attention is given to the gender dimension of labour migration or of national policies on combatting trafficking in persons. Women account for approximately 20 per cent of migrant workers from Tajikistan and are mostly recruited to work in the services sector, the hospitality sector and domestic work. The intersections of gender, migration status, race and ethnicity and poverty increase the risks of trafficking. To date, limited attention has been given to those intersections and to the gendered nature of the risks faced by women migrant workers, in particular in domestic work, but also in the hospitality and tourism sectors.

A. Trafficking within Tajikistan

9. The Special Rapporteur is concerned by the limited attention given to internal trafficking within Tajikistan, in particular trafficking for purposes of sexual exploitation, forced marriage and forced labour and servitude, the dominant focus being on the risks of trafficking for labour exploitation of Tajik nationals abroad. Victims of trafficking internally are not being identified and provided with assistance and protection, and there is no proactive approach being taken to address internal trafficking as a serious human rights violation. There is limited information available on the rights of migrant workers in Tajikistan, in the construction sector in particular. As such, the risks of trafficking for forced labour are not being monitored, and there is limited access to assistance and protection for migrant workers who are victims of trafficking or at risk of trafficking. Reports of forced returns of migrant workers in irregular situations also raise concerns in relation to the State's compliance with its non-refoulement obligations and its obligation to ensure the safe, and preferably voluntary, return of victims of trafficking. Some requests for residence and regularization of stay may not have been considered. The lack of information available on how risk assessments are undertaken prior to the deportation of migrant workers is of concern, and in that regard, the Special Rapporteur highlights the State's obligation to ensure the non-punishment of trafficked persons, including in relation to immigration or other status-related offences.

10. Another area of concern is the risk to trafficking and exploitation faced by children and young adults, especially young women, at State-organized events. The Special Rapporteur has received accounts regarding the retention of children and young adults to train and rehearse for performances at State-led events. Concerns raised include the risk of sexual exploitation of children.

11. The Special Rapporteur highlighted the important role played by trade unions and civil society in preventing trafficking in persons and in providing assistance to trafficked persons and persons at risk of trafficking. She notes that, although the right of migrant workers and members of their families to form associations and join trade unions is guaranteed under the Law on Trade Unions, there is a lack of information on how that right is protected in practice.

B. Gender inequality and discriminatory gender stereotypes

12. The Special Rapporteur notes that trafficking in women and girls is rooted in gender-based discrimination, gender-based structural inequality, gender-based violence and the feminization of poverty. Gender inequality remains pervasive in Tajikistan, with limited participation of women in law enforcement bodies, the judiciary and the diplomatic service.

13. The Special Rapporteur takes note of the roles of the Committee for Women and the Family, the adoption of a plan of action for the national strategy on promoting the role of women for the period 2015–2020 and the establishment of an expert council under the Committee for the gender analysis of draft laws. However, the participation of women in the Majlisi Oli, ministerial positions and local administration remains low. The Special Rapporteur is particularly concerned about the limited number of women who participated in the official meetings with government ministries and the justice sector held during her visit.

14. Trafficking for sexual exploitation internally remains largely invisible, and discriminatory attitudes towards women and girls, the stigmatization of victims and discriminatory gender stereotypes, in particular those affecting victims of sexual exploitation, allow for trafficking to continue with impunity. Such discrimination in practice also limits access to protection for victims, allowing the cycle of trafficking and re-trafficking to continue. Although representatives of several government bodies acknowledged the harmful impact of such discriminatory gender stereotypes and stigmatization, including on access to justice and to protection for victims/survivors of trafficking, the Special Rapporteur observes that limited attention is given to the gender dimension of trafficking in the former national action plan to combat trafficking in persons, or in the current draft of the national action plan covering the period 2022–2024. Discriminatory attitudes towards, and the stigmatization of, sex workers also limits engagement by sex workers with police and health-care professionals, highlighting the risks of trafficking.

15. The Special Rapporteur notes that low levels of participation of women in formal employment and lower rates of participation in education, in particular at the secondary level and in higher education, increase the risks of exploitation for women and girls. In particular, rural women and girls, female-headed households of families of male migrant workers, widows and divorced women are especially vulnerable to exploitation, due primarily to increased risks of poverty and discrimination among those groups. The Special Rapporteur highlights in particular the situation of rural women, the majority of whom are employed in the informal sector of the economy, and the precariousness of their socioeconomic status. Rural women have more limited access to education, training and formal employment opportunities, retirement and social security schemes and natural resources, such as land, which adds to the precarious status of rural women and increases the risks of exploitation that they face.

C. Rights of lesbian, gay, bisexual, trans and gender-diverse persons

16. The Special Rapporteur highlights the systemic discrimination and violence perpetrated against lesbian, gay, bisexual, trans and gender-diverse persons in Tajikistan, and expresses her concern that such discrimination limits access to assistance and protection for them and for persons at risk of trafficking and increases the risks of exploitation. The Special Rapporteur is concerned about the prevalence of social stigma and discriminatory stereotypes and about reports received during her visit of police abuse, arbitrary detention, intimidation and harassment of lesbian, gay, bisexual, trans and gender-diverse persons. Discrimination and social stigma also limits access to health-care services and to essential assistance measures for lesbian, gay, bisexual, trans and gender-diverse victims of trafficking.

D. Rights of persons with disabilities

17. The Special Rapporteur is also concerned about the situation of persons with disabilities and the limited attention given to the specific risks of trafficking faced by persons with disabilities and to measures required to ensure the right to access to justice for victims/survivors with disabilities. She welcomes the Government's road map towards ratification of the Convention on the Rights of Persons with Disabilities. Persons with disabilities, in particular children with disabilities, may be at particular risk of trafficking for exploitation in begging, forced labour or sexual exploitation. Situations of dependency, including in institutionalized and congregated settings, may lead to abuses of positions of vulnerability, given the limited oversight or independent monitoring and inspection of such settings. Stigma and discrimination against children with disabilities remain a serious concern and increases their risks of trafficking. Difficulties in reporting trafficking or risks of trafficking, given that measures are not in place to ensure the accessibility of information, and in providing access to victim assistance and protection measures for persons with disabilities may also arise. The Special Rapporteur was informed of difficulties arising in legal proceedings owing to inadequate accommodation or procedural measures to ensure the effective participation of persons with disabilities.

E. Impact of the coronavirus disease (COVID-19) pandemic on the protection of the rights of trafficked persons

18. The Special Rapporteur notes the impact that the COVID-19 pandemic has had in Tajikistan on efforts to combat trafficking in persons and ensure the rights of victims/survivors. The COVID-19 pandemic has had a significant impact on remittances from migrant workers and on household income. Limited migration for work opportunities, due to the closure of borders and restrictions on migration, in particular to the Russian Federation, has increased the risks of irregular and unsafe migration and heightened the risks of trafficking. While some initiatives have been undertaken to assist Tajik migrant workers to return, many migrant workers remain in vulnerable situations, with limited employment opportunities and limited access to social security or other assistance, including medical assistance.

19. Migrant domestic workers are particularly at risk of exploitation, with the increased restrictions placed on freedom of movement and the imposition of lockdown and curfew measures, combined with increased health hazards in households for domestic workers. For migrant workers' family members whom they have left behind, the reduction in household income has increased the risks of exploitation, including in particular in the informal economy and in rural areas.

20. The Special Rapporteur notes that globally the COVID-19 pandemic has increased the risks of recruitment for sexual exploitation online and has contributed to an increased demand for child sexual abuse material online and technology-facilitated child sex trafficking. Those risks are also prevalent in Tajikistan.

21. The COVID-19 pandemic has affected in particular the provision of assistance to victims/survivors. The Special Rapporteur highlights the challenges for non-governmental organizations and other service providers in providing safe accommodation and specialized assistance and in supporting engagement with the national referral mechanism. She notes the increased difficulties in identifying and providing assistance to victims, the reduction in the number of victims identified and the slowed progress of investigations of trafficking cases. Against that background, trafficking continues with impunity. Delays in court proceedings, including in compensation proceedings, has limited access to remedies for victims/survivors of trafficking, which also hinders longer-term recovery for victims/survivors.

F. Specific human rights concerns relating to refugees and asylum seekers

22. The Special Rapporteur commends the Government on its track record of ensuring protection for Afghan refugees and taking a leading role within the region on the ratification of the Convention relating to the Status of Refugees and the Protocol thereto, in 1993. The current situation, however, requires urgent action to ensure that refugees and asylum seekers are not at risk of exploitation or serious human rights violations, including trafficking. The Law on Refugees of 2002 was amended by Law No. 1124 of 2014, which determines the grounds and procedures for the recognition of asylum seekers as refugees and sets out the rights of refugees in Tajikistan. There are currently more than 13,000 persons of concern, including new arrivals, and a protracted caseload, in Tajikistan. More than 5,400 Afghans arrived in Tajikistan in January 2021 alone. Following an increase in the number of Afghan asylum seekers arriving in Tajikistan in 2021, the border with Afghanistan was closed in August 2021 and remains closed.

23. Refugee status determination in Tajikistan is conducted by the Department of Citizenship and Work with Refugees under the Passport Registration Service of the Ministry of the Interior. Despite the amendment of the Law on Refugees, in 2014, in which some improvements were made, several gaps remain with respect to: (a) the existence of pre-screening procedures before an asylum claim is registered; and (b) access to the asylum procedure being dependent on various preliminary requirements, namely, registration with the local authorities, implying the possession of a travel document and visa, medical examinations and evidence of residence. The latter precondition is applied by the Department as a reason for not registering asylum applications.

24. According to government resolution No. 325 of 2000, refugees and asylum seekers in Tajikistan are not allowed to live in larger cities or in the border districts of the country. Afghan refugees live primarily in the Districts of Republican Subordination (Vahdat, Rudaki, Hissor and ShakhriNAV), Bohtar District in the southern Khatlon region and Jabbor Rasulov District in the Sughd region. Such restrictions on residence, and place of registration, create additional obstacles to securing employment and to acquiring access to education and housing and increase the risks of exploitation, in particular for female-headed households.

25. At the end of July 2021, local authorities suspended the issuance of residence permits to all newly arrived Afghans. As noted above, such documentation is a pre-requisite for applications for asylum. In addition, the State Refugee Status Determination Commission has suspended the review of asylum applications for refugee status. The Special Rapporteur is extremely concerned by those developments, which leave recently arrived Afghan refugees without documentation and in a highly precarious situation concerning their legal status, without access to employment, education or opportunities for resettlement.¹ The Office of the United Nations High Commissioner for Refugees (UNHCR) and other organizations provide limited cash interventions, as well as other assistance aimed at covering some basic needs, but they are not sufficient, and the situation is rapidly deteriorating.

26. The lapse in lodging an asylum application within the requisite time frame, which is one month after arrival in Tajikistan, places persons of concern at risk of being considered as illegally residing foreigners. Without documentation and access to asylum procedures, Afghan refugees in such situations may be at risk of arrest and of being subject to fines and deportation, increasing the risks of refoulement and of the violation of the principles of non-punishment of victims/survivors of trafficking and non-penalization of asylum seekers, as encapsulated in article 31 of the Convention relating to the Status of Refugees.

27. The Special Rapporteur has received reports of deportations, and the forced removal, of Afghan asylum seekers by Tajik authorities, without any assessment of asylum or other international protection claims having been conducted. In August 2021, the Special Rapporteur was informed that 80 asylum seekers were not allowed access to the territory of Tajikistan and, after being stranded for two months between Tajikistan and Afghanistan in a buffer zone, were forcibly returned without an assessment of asylum or other international protection claims having been conducted. UNHCR has issued a non-return advisory highlighting the specific protection risks faced, in particular, by women and girls. Such protection risks may include the risks of trafficking, and re-trafficking, for purposes of forced marriage, sexual exploitation or forced labour in Afghanistan. The specific risks of trafficking faced by boys also arise in the context of their return to Afghanistan.

III. Legal, policy and institutional frameworks for combating trafficking in persons

A. International legal framework

28. Tajikistan ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking in Persons Protocol), supplementing the United Nations Convention against Transnational Organized Crime, in 2002. Tajikistan is a party to most of the core international human rights treaties, including the following: Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Rights of the Child; Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Civil

¹ The Special Rapporteur has, however, taken note of, and welcomes, the resumption by the Government of Tajikistan of the registration of asylum seekers, in order to determine their refugee status, in March 2022. See also www.unhcr.org/en-us/news/press/2022/3/6234c80f4/un-high-commissioner-refugees-calls-greater-support-afghan-refugees-tajikistan.html.

and Political Rights; Optional Protocol to the International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Migration for Employment Convention (Revised), 1949 (No. 97) of the International Labour Organization (ILO); ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949); ILO Forced Labour Convention, 1930 (No. 29) and the Protocol thereto; ILO Abolition of Forced Labour Convention, 1957 (No. 105); and ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

29. Tajikistan has not yet ratified the ILO Domestic Workers Convention, 2011 (No. 189), or the Convention on the Rights of Persons with Disabilities. A road map to the ratification of the latter Convention has been adopted.

B. Domestic legislation

30. Article 130.1 of the Criminal Code of Tajikistan criminalizes trafficking in persons. Article 130 (2) provides for an aggravated punishment of trafficking in certain situations, including in situations involving the use of violence, and where trafficking offences are committed by an official. Article 167 of the Criminal Code specifically addresses trafficking of minors. Following other Commonwealth of Independent States countries, Tajikistan adopted legislation on trafficking in 2004. That legislation was replaced by the Law on Counteracting Trafficking in Persons and Providing Support to Victims of Trafficking in Persons of 2014 (Anti-Trafficking Law).

31. Article 1 of the Anti-Trafficking Law defines trafficking in persons and provides a definition of exploitation. A wide range of purposes of exploitation are listed, including engaging in begging, illegal removal of organs or human tissue, illegal adoptions with commercial goals, illegal use of an individual for reproductive goals or for biomedical research, or forced participation in illegal criminal groups, criminal and illegal activity or armed conflicts. It recognizes the irrelevance of the means, when the victim is a child. Part 5 of the Anti-Trafficking Law includes comprehensive provisions on the State's obligations of identification, assistance and protection to children who are victims of trafficking in persons. Article 20 specifically recognizes that consent is irrelevant, where any of the means listed in the definition of trafficking are established, and the status of a victim is not dependant on cooperation with law enforcement agencies, or an individual's official status as the aggrieved party in a criminal case. Article 20 (4)–(5) provides for the application of the non-punishment principle. At the time of the Special Rapporteur's visit, she was informed that further legislative reform was in progress, with a view to incorporating the non-punishment principle into the Criminal Code, in response to confusion arising between the various legislative provisions and gaps in implementation.

32. The Anti-Trafficking Law sets out the roles and responsibilities for each agency engaged in action against trafficking and provides a legislative framework for the identification of, the provision of assistance to, and the protection of victims. The Special Rapporteur commends the efforts undertaken to ensure that comprehensive legislation is in place, however, a key concern expressed throughout her visit was the limited implementation in practice of the Anti-Trafficking Law, in particular with regard to the provision of assistance to, and the protection of, victims/survivors.

C. Policy and institutional framework

33. The Special Rapporteur takes note of the measures undertaken to coordinate action to combat trafficking in persons at the national level. Reflecting the commitment of the Tajik authorities, the Interministerial Commission for Combating Trafficking in Persons is placed under the Office of the President. Membership of the Commission includes relevant ministries, State commissions and law enforcement bodies, including the Committee on National Security and the Office of the General Prosecutor. The Special Rapporteur was informed that the Commission meets twice a year to review and monitor progress on the

implementation of the national action plan and emerging trends. The Special Rapporteur is concerned, however, about the lack of transparency of the meetings and the limited engagement with civil society, lawyers and human rights defenders by the Commission. Although provisions are made for the participation of, and the engagement with, civil society, in practice, there are limited opportunities for, or support given to, non-governmental organizations to engage effectively in the work of the Commission.

34. Efforts to combat trafficking in persons are also defined and established in the national action plan for the period 2018–2021. The Special Rapporteur commends the measures taken to develop a new national action plan to commence in 2022, but she is concerned that limited data and independent research on trafficking in persons in Tajikistan hinders the analysis of the current context and poses challenges for the protection of the human rights of trafficked persons. There is limited research available on internal trafficking, trafficking for purposes of sexual exploitation and of trafficking risks faced by persons with disabilities. The development of a wider research base is essential, with attention given to the gender dimension of trafficking.

IV. Prevention of trafficking in persons

35. The Special Rapporteur recognizes the priority given to prevention activities, in particular in the context of labour migration. She commends the significant efforts made to promote safe migration for work. The measures taken to promote safe migration, including the adoption of bilateral agreements with the Russian Federation and the conduct of awareness-raising and education initiatives and pre-departure orientation programmes by the Migration Service, are an important step to prevent trafficking for forced labour. The commitment to diversifying migration opportunities to new countries of destination and to a more diverse range of employment sectors is welcome. The Special Rapporteur commends the measures undertaken, under the auspices of the Ministry of Labour, Migration and Employment, to strengthen vocational training and education programmes for migrant workers.

36. The establishment of subsidiary offices of the Migration Service in the Russian Federation and the efforts undertaken to ensure the regularization of the status of Tajik citizens who have exceeded their permitted length of stay in the Russian Federation are important prevention measures. The Special Rapporteur also highlights the efforts made to provide passports to Tajik migrant workers in the Russian Federation by dispatching specialists to the cities and provinces in the Russian Federation with the largest numbers of Tajik migrant workers.

37. Limited attention is given, however, to the specific risks faced by women migrant workers by the State Migration Service and in pre-departure orientation programmes. It is critical that the gender inequality that leads to abuses of women migrant workers is recognized and that expanded safe migration routes and opportunities for women migrant workers are promoted, including for migrant domestic workers at serious risk of exploitation. The prioritization of expanded safe migration opportunities for women is essential to preventing trafficking.

38. The Special Rapporteur acknowledges the measures taken to regulate recruitment agencies through the licensing process, in order to combat exploitative practices and the risk of trafficking in persons for forced labour and sexual exploitation. However, serious concerns remain as to the effectiveness of such prevention measures to date. The Special Rapporteur received reports that more than 15 recruitment agencies operate within the State and that, while investigations and prosecutions have taken place in relation to the criminal activities of some labour recruitment agencies, information was not available on the specific charges brought, whether investigations and prosecutions for trafficking in persons were initiated and completed or the sentences imposed on responsible persons.

39. The Special Rapporteur commends the important work undertaken by consular services in countries of destination for Tajik migrant workers. However, she is concerned that further awareness-raising and training is needed to address the gender dimensions of

trafficking, in particular for purposes of sexual exploitation, and to ensure that the rights of trafficked persons and persons at risk of trafficking are fully protected.

40. More attention must be given to prevent risks of internal trafficking within Tajikistan for forced labour, in particular in sectors such as construction, mining, agriculture and domestic service. At the time of her visit, information was not available on the measures taken to prevent trafficking of migrant workers and members of their families within Tajikistan or on the measures taken to ensure the protection of their rights on an equal footing with Tajik citizens and to ensure equal protection of the law.

41. New programmes, developed with the support of the Start-Up Fund for Safe, Orderly and Regular Migration, for the families of migrant workers, and in particular members of female-headed households remaining in Tajikistan, are measures that help to prevent further risks of trafficking, in particular in rural areas and in the informal economy. However, targeted prevention measures highlighting the risks within the informal economy are limited and the risk of exploitation is high.

42. The Special Rapporteur notes the important roles played by labour inspectorates and trade unions in preventing trafficking for forced labour. However, the Tajik labour inspectorate has very limited capacity and resources and limited reach in rural areas and in sectors at risk, such as in domestic households and the agricultural sector. Concerns have also been raised in relation to the independence of the labour inspectorate and trade unions and the effectiveness of actions taken to prevent trafficking in persons.

43. Prevention measures aimed at countering the risks of trafficking for sexual exploitation internally have not received sufficient attention and receive very limited resources. The persistence of discriminatory gender stereotypes and systemic gender inequality, as well as the limited participation of women at senior levels in Government, the police or the justice sector, limits the opportunities for open discussion, analysis and programming for more effective prevention of trafficking for sexual exploitation within Tajikistan. The Special Rapporteur is also concerned about the absence of targeted prevention programmes to safeguard sex workers/persons engaged in prostitution against the risks of trafficking.

44. Gender inequality in education, the low school enrolment rate among girls, especially in remote areas, and the higher secondary school dropout rate among girls, contribute to the risks of exploitation. Limited attention is given to the risks of trafficking for forced marriage and sexual exploitation, in particular of girls. The Special Rapporteur highlights the importance of age-appropriate education on sexual and reproductive health, relationships and sexuality for children and young people across all regions of Tajikistan. She notes the significant attention given to prevention measures in the new draft national action plan, but she is concerned that the gender dimension of trafficking is not addressed adequately and that insufficient attention is given to internal trafficking and to trafficking for purposes of sexual exploitation.

45. There was no information available on targeted prevention measures to address the risks of trafficking of persons with disabilities, in particular in congregated and institutional settings, despite the reports of abuse and sexual violence. The Special Rapporteur is concerned about the lack of action taken to ensure the accessibility of information on the risks of trafficking faced by persons with disabilities and of accessible information on the availability of assistance and protection measures for persons with disabilities who are victims of trafficking or at risk of trafficking.

46. The Special Rapporteur notes that training programmes are in place for a range of justice sector actors and for law enforcement bodies. Training on combating trafficking in persons is incorporated into routine training for the police service. However, the duration of such training is short and not sufficiently in-depth to ensure appropriate levels of capacity or professionalism in ensuring the rights of trafficked persons or persons at risk of trafficking. Training of border guards has taken place, as set out in the national action plan, with the support of United Nations agencies, international organizations and donor Governments and with some input from civil society organizations. Although the current training efforts are commendable, continued training on human rights-based approaches to combating trafficking in persons and on human rights at borders, including on the right to seek and enjoy

asylum and on identification of victims of trafficking for all forms of exploitation, is essential. Attention to risks and indicators of child trafficking, and delivering training on child protection and the rights of the child, is also critical.

47. There is limited engagement with victims/survivors in such training programmes, and greater attention must be given to the gender dimensions of trafficking in persons to combat the prevalence and harmful impact of discriminatory gender stereotypes, in particular concerning victims of trafficking for purposes of sexual exploitation, lesbian, gay, bisexual and trans persons and persons with disabilities. Such training is essential to ensure effective access to justice, to remedies and to equal protection of the law in practice.

48. The Special Rapporteur notes the significant awareness-raising activities undertaken among young people on the risks of trafficking in persons, under the auspices of the Committee for Youth and Sports Affairs, including targeted outreach in rural areas. Challenges remain, however, given the high levels of youth unemployment and the young population of Tajikistan. At the time of the visit, limited information was available on how such awareness-raising activities engage with lesbian, gay, bisexual and trans youth groups or young persons with disabilities.

49. The Special Rapporteur highlights the importance of prevention actions to address the use of digital technologies in trafficking, including through social media, the dark web and messaging platforms, which provide easy access to potential victims, in particular children.

A. Trafficking of children

50. The Special Rapporteur commends the coordinated efforts by the ILO International Programme on the Elimination of Child Labour to eliminate child labour and the risks of child trafficking for forced labour, in particular in the cotton harvesting sector. She is concerned, however, that limited attention is given to prevention measures to combat the risks of child trafficking for sexual exploitation within Tajikistan. She commends the ongoing efforts to reduce statelessness and to ensure the birth registration of all children, the latter of which is an important measure to reduce the risks of trafficking of children.

51. Greater attention to gender equality in the education curriculum at the primary and secondary levels and to increasing the levels of enrolment in secondary and higher levels of education among girls is critical to effective prevention action. The Special Rapporteur welcomes the measures taken to prevent early, child and forced marriage, but she is concerned about continuing reports of child marriage, in particular in rural and remote areas, and the attendant risks of trafficking for purposes of sexual exploitation and forced labour.

52. The Special Rapporteur is concerned about the limited action taken to prevent the trafficking of children with disabilities, in particular for forced begging, and highlights the need for prevention measures engaging in particular with children in street situations. The Special Rapporteur welcomes the steps taken to prevent trafficking for purposes of illegal adoption, but more effective implementation of prevention measures must be undertaken across all regions of Tajikistan.

53. The Special Rapporteur is concerned that limited attention is given to the prevention of trafficking of children belonging to minority groups and the protection of children of minority groups who are at risk of trafficking, in particular for forced begging, forced criminality and labour and sexual exploitation. The Special Rapporteur highlights the importance of ensuring that the particular situation of Roma and Jughhi children is recognized and that measures are taken to facilitate their access to official personal documentation, social protection services and social integration programmes in order to ensure that their families can gain access to public services, as recommended by the Committee on the Rights of the Child.

54. The Special Rapporteur recognizes the efforts undertaken to prevent the trafficking of children into armed conflict, and she highlights the importance of ensuring that a human rights based approach is taken, including through the strengthening of child protection systems, improved access to education, vocational training and employment and measures to ensure the participation of children and young people in public life.

V. Protection of trafficked persons

A. Identification of victims of trafficking

55. The Special Rapporteur highlights that the identification of victims of trafficking is a positive obligation on the State, as required under the Trafficking in Persons Protocol, and international human rights law, and not dependent on receipt of a complaint from a victim. The State is required to take steps to identify, assist and ensure protection for, victims, whenever there are reasonable indications of trafficking. According to the national referral mechanism, preliminary identification may be completed by either a State agency or a non-governmental organization. Formal identification as a victim of trafficking may only be completed by authorized State agencies (article 12 of the Anti-Trafficking Law). The Special Rapporteur is concerned about the low numbers of victims identified and provided with assistance by the State, in particular during the COVID-19 pandemic.

56. The discriminatory attitudes on the part of police and law enforcement bodies and the continuing prevalence of harmful, discriminatory gender stereotypes hinder the identification of victims of trafficking for sexual exploitation in particular. The credibility of victims is frequently questioned when they report experiences of trafficking, or the risks of trafficking, to police, and there is limited awareness of, or attention given to, the impact of trauma on victims in identification processes. Lack of identification of lesbian, gay, bisexual and trans trafficked persons is also a serious concern, reflecting systemic discrimination against them.

57. The Special Rapporteur notes that the early identification of trafficked persons and persons at risk of trafficking is essential to ensuring the protection of victims and breaking the cycle of trafficking, exploitation and re-trafficking. Identification is also essential to ensuring the effective implementation of the non-punishment principle and ensuring protection against refoulement for victims who are foreign nationals. The Special Rapporteur highlights that, without identification, traffickers will continue to operate with impunity and there will be a lack of accountability for serious human rights violations.

58. There is a lack of information available on how identification processes address the rights and needs of trafficked persons with disabilities, including in the provision of accessible information and ensuring reasonable accommodation at all stages of identification.

59. The low rates of identification of victims of trafficking within Tajikistan, in particular for purposes of sexual exploitation, pose grave risks to victims. Reports that victims of trafficking for sexual exploitation are not identified as such, and instead are prosecuted for offences linked to involvement in prostitution (article 238 of Criminal Code) or keeping or organizing brothels (article 239 of Criminal Code), are of serious concern.

B. Assistance to victims of trafficking

60. According to article 11 of the Anti-Trafficking Law, assistance is provided to victims from the moment of initial identification. A national referral mechanism was established in 2016 by Governmental Act No. 327. The national referral mechanism is aimed at ensuring effective protection of the rights of victims of trafficking in persons and their referral for the provision of comprehensive support and services. According to the Anti-Trafficking Law and the national referral mechanism, assistance to victims is not conditional on their cooperation with law enforcement bodies. Provision is made for an individual assessment of victims' needs, and assistance is to be provided in all cases, with the consent of victims and without discrimination. Under Act No. 327, the establishment of specialized centres by the State or non-governmental organizations to provide support to victims and long-term social protection measures are also envisaged.

61. The Anti-Trafficking law sets out the roles and responsibilities of State agencies providing assistance to victims of trafficking, in coordination with civil society. Under the Law, limited assistance to victims is envisaged, irrespective of victims' cooperation with law enforcement agencies in the investigation and prosecution of the crime of trafficking. However, under article 4.3, the provision of additional assistance is envisaged, dependent on

the level of cooperation with law enforcement agencies: “A differentiated approach to defining the amount of rehabilitation and social adaptation services to be provided to victims of trafficking in persons in accordance with their agreement (or lack thereof) to cooperate with law enforcement agencies.” In practice, victims are required to cooperate in order to receive assistance and protection.

62. Legal aid is essential to victims, and it is clear that an expansion of legal aid for victims is urgently needed to ensure access to justice. Early provision of legal assistance is important to ensure that the rights of victims are realized and that identification and effective protection is ensured. During her visit, the Special Rapporteur was impressed by the excellent work performed by lawyers working with non-governmental organizations and international organizations. However, she received reports that access to free legal aid for victims of trafficking is, in practice, provided only on the condition that victims cooperate with law enforcement bodies. The provision of free legal aid to victims of trafficking is critical to the identification, assistance and protection of trafficking persons and to ensuring the human rights of all trafficked persons without discrimination. The Special Rapporteur notes that the risks of reprisals by traffickers are significant and that further support is needed to safeguard the independence of lawyers and members of the judiciary.

63. Article 28 of the Anti-Trafficking Law specifies the content of assistance measures to be provided to victims of trafficking, which include legal, psychological, medical and material aid, as well as measures to support access to employment or professional orientation and training. Article 29 establishes that support is to be provided to victims for up to two months, irrespective of their willingness to cooperate with law enforcement agencies. Article 29 also determines that legally recognized victims will not be held in a detention or similar facility. The Special Rapporteur is concerned about the limited implementation of the assistance provisions in practice and the reliance on non-governmental organizations and international organizations to ensure that specialized assistance is ensured to victims of trafficking.

64. Although the Anti-Trafficking Law provides for the establishment of State funds for assistance, assistance continues to be provided primarily by international organizations, and funding for the provision of assistance by non-governmental organizations remains limited and uncertain. Services, such as legal aid or medical treatments, have been provided with the support of civil society organizations, and in some instances, specialized medical assistance and counselling services were secured only through fundraising by extended family members.

65. The limited provision of shelter accommodation and the absence of specialized, safe accommodation for victims located outside of Dunshanbe leaves victims in rural areas and smaller cities without assistance and protection, increasing the risks of re-trafficking and limiting the possibility of recovery. In Dushanbe, there is currently only one shelter, which operates under the control of the Ministry of Health. Although provision is made for 27 staff and 30 places for the accommodation of victims/survivors, the Special Rapporteur was informed that only 5 victims were accommodated in the shelter in 2021. Despite her repeated requests to visit the shelter, as part of the routine list of places visited during a country visit, the request was not granted.

66. The Special Rapporteur received reports of incidents of discrimination against, and the harassment of, sex workers and of the difficulties experienced in gaining access to reproductive and sexual health services and other medical treatment due to social stigma and discriminatory attitudes. She is concerned that sex workers may not have access to [HIV/AIDS](#) treatment and support services and that such restrictions on access to health-care services limit the opportunities for early identification and provision of assistance to trafficked persons and persons at risk of trafficking. The Special Rapporteur also received reports of the harassment and intimidation of sex workers by police officers, which may have a negative impact on the provision of assistance to persons trafficked for sexual exploitation and on the identification and protection of persons at risk of trafficking.

67. The Special Rapporteur was particularly impressed by the assistance and services provided to victims by non-governmental organizations and international organizations. However, the limited funding available to non-governmental organizations and the

precariousness of funding and resources for service provision is a serious concern. The Special Rapporteur reiterates that it is the obligation of the State to ensure assistance and protection to victims of trafficking, as provided for in the Anti-Trafficking Law and required under international human rights law. Given that attention is diverted to national security and border control concerns, the Special Rapporteur is concerned that the State is not fulfilling its obligations to ensure assistance to trafficked persons, in accordance with its obligations under international human rights law and the Trafficking in Persons Protocol.

C. Repatriation, residence and return

68. For victims of trafficking exploited abroad, repatriation of victims is facilitated by the State, and provision is made for assistance on their return to Tajikistan. The Special Rapporteur commends the attention given to the provision of consular assistance and services to Tajik migrant workers in several countries of destination and to Tajik victims of trafficking. In the Russian Federation, two additional consulates general have been established, in Saint Petersburg and Novosibirsk. However, the Special Rapporteur is concerned about the limited provision of consular assistance and protection for Tajik migrant workers abroad, in particular outside the main cities in the Russian Federation, and in particular for migrant women workers in the Gulf region, in destination countries including Qatar, Saudi Arabia and the United Arab Emirates.

69. The Ministry of the Interior confirmed that, with financial support from the International Organization for Migration, in 2020 and 2021, 16 victims of trafficking were assisted in returning from India, Kazakhstan and Saudi Arabia. However, there is concern that the assistance provided is limited. The Special Rapporteur received reports of victims of trafficking having to rely on funds from extended family members to pay for return flights to escape situations of trafficking and to pay the costs of urgent medical assistance on return.

70. Article 31 of the Anti-Trafficking Law addresses the repatriation of foreign citizens and stateless persons who have become victims of trafficking in persons and provides for limited rights of residence. It also recognizes the right to residency during criminal proceedings and specifies the factors to be considered when considering requests for residence. However, there is a lack of information on the number of residence permits provided to victims who are foreign nationals or stateless persons, the duration of such permits or the grounds on which such permissions were granted. The Anti-Trafficking Law states that legal residence permits cannot be provided to adult victims of trafficking in persons who are either foreign citizens or stateless persons and whose identity cannot be established, and provides that measures are to be taken to administratively deport such individuals. That provision raises serious concerns as to how the rights of such victims of trafficking to assistance and protection, including non-refoulement, are protected. Information was not available on how pre-removal risk assessments are undertaken in practice.

D. Specific concerns related to foreign fighters and their families and the application of the principle of non-punishment

71. Trafficking of children, including in the context of recruitment by armed or terrorist groups for purposes of forced criminality, forced labour or sexual exploitation is a serious concern. Many women and children who travelled to conflict zones may have been trafficked. The Special Rapporteur welcomes the commitment by the Government to repatriate Tajik women and children who are currently in camps in the Syrian Arab Republic, in particular from Al Hol camp. The plans would continue the process of repatriation that commenced in 2019, but was subsequently suspended in 2020, due to the COVID-19 pandemic. The Special Rapporteur welcomes the repatriation of 84 children from Iraq in 2019. The children are currently under the care of the State, and the majority remain in child protection institutions. Very young children have been placed in care facilities under the authority of the State Committee on Women and the Family. Older children have been placed in a boarding school with orphan children and come under the authority of the Ministry of Education. The Special Rapporteur is concerned that limited access to the children has been given to family members, in particular since the outbreak of the COVID-19 pandemic.

72. The Special Rapporteur highlights the obligations of the State to identify and ensure assistance and protection to all victims of trafficking, including those repatriated from the Syrian Arab Republic and Iraq, and to ensure in particular the application of the principle of non-punishment. Regarding the children who have already been repatriated, concerns have been raised to the Special Rapporteur that a best interests determination has not been undertaken and that information has not been made available on any clear plans on long-term rehabilitation programmes for the children or on discharging them to their remaining family members. In that regard, the Special Rapporteur reminded the Government that, taking into account the negative effects of institutionalization on children, reunification with their families should be ensured, following a determination as to whether it is in the child's best interests. The Special Rapporteur highlights the State's obligations under the Convention on the Rights of the Child, in relation to children deprived of parental care, and the Optional Protocol thereto on the involvement of children in armed conflict. She also highlights the State's obligations to facilitate the repatriation of all Tajik victims of trafficking, some of whom may be detained in camps in Iraq and the Syrian Arab Republic, and to ensure the provision of consular assistance, and protection, without discrimination. The process of repatriation must be resumed as a matter of urgency, given the inhuman and degrading conditions in the camps and the serious risks to life and health, in particular for children, and the risks of trafficking and re-trafficking that those conditions pose.

E. Access to compensation

73. The provision of full compensation for the moral and material harm done to victims of trafficking is one of the stated objectives of the Anti-Trafficking Law. However, in practice, access to compensation remains limited. Delays in legal proceedings add to the difficulties in securing compensation. The limited availability of legal aid also hinders access to remedies for victims of trafficking. Information was not available on the number of compensation awards made or the average amount of compensation received by victims. The Special Rapporteur is concerned about the failure to establish a State fund for compensation, despite repeated recommendations highlighting the importance of such a fund.

74. According to information received during the visit, compensation has been rarely ensured for victims of trafficking when the exploitation occurred abroad. The Special Rapporteur takes note of the efforts undertaken to improve access to compensation for victims of trafficking for purposes of forced labour in the context of international migration, through improved cooperation with law enforcement bodies in countries of destination. In cases involving labour recruitment agencies, where investigations and prosecutions have taken place in Tajikistan, limited compensation has been obtained. However, compensation is, in practice, limited to the recovery of unpaid wages only. The Special Rapporteur received reports of significant delays in legal proceedings and of the continuing impunity of some labour recruitment agencies.

VI. Partnership: role of civil society and protection of civil society space

75. An enabling environment for civil society and human rights defenders is essential to ensuring the effective prevention of trafficking in persons, the early identification of trafficked persons and persons at risk of trafficking and the provision of assistance and protection to them, as recognized under the Trafficking in Persons Protocol and international human rights law. The Special Rapporteur commends the joint activities undertaken by the Government with non-governmental organizations to promote and protect the rights of migrant workers and members of their families and to provide assistance to victims/survivors of trafficking. However, the amendments to the Law on Public Associations, adopted in July 2015 and January 2019, may undermine the ability of non-governmental organizations, including specialized non-governmental organizations supporting victims of trafficking, to carry out their work effectively.

76. The Special Rapporteur is concerned about the limited financial and human resources available to non-governmental organizations and the negative consequences on the provision of long-term, sustained specialized assistance to victims/survivors. She is seriously concerned about the reports that she has received of intimidation of, and threats made against, non-governmental organizations providing assistance to trafficked persons. The context of impunity in which those threats were made by traffickers raises concerns not only about the independence of the judicial system, but also about the capacity of the law enforcement agencies to ensure protection to victims, their families and the organizations supporting them against retaliation. The Special Rapporteur notes that such threats and intimidation may increase the reluctance of victims/survivors to report their experiences of trafficking to the police, thereby increasing the level of underreporting and the low level of identification of victims and contributing to the ongoing impunity for the serious human rights violation of trafficking.

VII. Investigation, prosecution and access to justice

77. The Special Rapporteur commends the establishment of a specialized Centre on Trafficking in Persons within the Ministry of the Interior, in 2017, and the launch of a dedicated hotline for victims of trafficking and persons at risk of trafficking. The hotline is regularly advertised, primarily on the radio and television. A new dedicated website for the Centre has been launched with the support of OSCE.

78. The strengthening of investigation and prosecution capacity is progressing, with the support of the specialized Centre, which also coordinates training and professional development for the police. The Special Rapporteur commends the training programmes undertaken and highlights the importance of ensuring that such training is rolled out across all regions and districts of Tajikistan, including rural areas.

79. The Special Rapporteur highlights the need for a wider range of investigative techniques, to ensure effective investigations. Greater attention is needed to ensure victim and witness protection during criminal proceedings. The Special Rapporteur commends the commitment to strengthening investigation capacity to address the use of digital technologies by traffickers, including messaging apps, social media and the dark web.

80. Despite significant efforts in the specialization and strengthening of investigative capacity, the number of investigations undertaken is limited, in particular in response to internal trafficking for purposes of sexual and labour exploitation. The Special Rapporteur received reports of discriminatory attitudes within the police and prosecution services, in particular in relation to victims of trafficking for purposes of sexual exploitation.

81. Reports of the intimidation and harassment of lesbian, gay, bisexual and trans persons, including those who are at risk of trafficking, are a serious concern.

82. The lack of disaggregated data on investigations into, and the prosecution of, trafficking cases, has been a serious concern. Information on the age, gender and nationality of victims and the type of exploitation, as well as on the outcomes of investigations and prosecutions, is critical to the analysis of the effectiveness of anti-trafficking measures. The Special Rapporteur welcomes the measures now under way to develop a unified database for crimes related to trafficking in persons and to improve the provision of disaggregated data.

83. The Special Rapporteur takes note of the measures taken to ensure child-friendly justice, in line with general comment No. 24 (2019) on children's rights in the child justice system of the Committee on the Rights of the Child. They include the development of specialized training provided to members of the judiciary and prosecutors. The Special Rapporteur highlights the importance of ensuring that the voices of children who are victims are heard, throughout any judicial or administrative proceedings affecting them, of the provision and delivery of child-friendly information and adequate support for self-advocacy and of appropriately trained staff to carry out that work. The Special Rapporteur highlights the need for expansion of child-friendly justice measures across all regions of Tajikistan, recognizing the special needs and rights of children who are victims of trafficking.

VIII. Conclusions and recommendations

A. Conclusions

84. Significant progress has been made in the development of a comprehensive legislative framework to combat trafficking in persons and in the adoption of national action plans. However, the Special Rapporteur is concerned about the limited implementation in practice of measures to ensure the human rights of trafficked persons and persons at risk of trafficking, in particular the limited provision of unconditional assistance and long-term protection to victims/survivors. The Special Rapporteur highlights the importance of addressing the gender inequality and discriminatory gender stereotypes that hinder the identification of, and provision of assistance to, trafficked persons. The actions taken to prevent trafficking in the context of labour migration are significant, and the continued strengthening of international cooperation and expansion of safe, regular migration opportunities is critical to the prevention of trafficking. As highlighted above, attention is urgently needed to address internal trafficking, in particular for purposes of sexual exploitation, within Tajikistan.

B. Recommendations

85. The Special Rapporteur recommends that the Government of Tajikistan:

(a) Strengthen partnerships with civil society organizations, in particular specialized non-governmental organizations working with trafficked persons, persons at risk of trafficking and victims/survivors, including through regular meetings with the Interministerial Commission for Combating Trafficking in Persons and with local and regional administrative authorities;

(b) Ensure the comprehensive, independent evaluation of the effectiveness of measures taken to date under the national action plan and of the work of the national referral mechanism, in particular concerning the assistance provided to, and protection of the rights of, victims/survivors;

(c) Ensure the implementation in practice of the principle of non-punishment of victims of trafficking, without discrimination, including in the context of forced criminality and in relation to the return of victims from situations of armed conflict, in particular in Iraq and the Syrian Arab Republic;

(d) Ratify and implement the Convention on the Rights of Persons with Disabilities to ensure that the rights of trafficked persons with disabilities are protected and that effective access to justice is ensured for persons with disabilities, through the provision of reasonable accommodations in all legal proceedings.

86. Regarding the identification and protection of victims, the Special Rapporteur recommends that the Government of Tajikistan:

(a) Ensure that a proactive approach to the identification of victims of trafficking is taken, in cooperation with civil society organizations, trade unions, health-care professionals and child protection specialists. Ensure that the approach is trauma-informed, victim-centred and human rights-based. Particular attention must be paid to the gender dimension of trafficking in persons and the identification of lesbian, gay, bisexual and trans victims of trafficking, victims of internal trafficking and trafficked persons with disabilities;

(b) Provide training and continuing professional development to health-care professionals, specifically on the indicators of trafficking for all forms of exploitation, on assistance mechanisms for trafficked persons and on trafficking for sexual exploitation;

(c) Ensure that training for law enforcement officials addresses discriminatory attitudes towards victims and gender stereotypes and that women police

officers are trained and available to conduct interviews with victims, and strengthen victim and witness protection.

87. With regard to the protection of, and provision of assistance to, victims of trafficking and the long-term social inclusion of victims/survivors, the Special Rapporteur recommends that the Government:

(a) Ensure that assistance to victims is provided without discrimination and that urgent action is taken to address discriminatory stereotypes and attitudes towards victims of trafficking, especially victims of trafficking for sexual exploitation and lesbian, gay, bisexual and trans trafficked persons or persons at risk of trafficking. Ensure that information and assistance is accessible for victims with disabilities;

(b) Strengthen training for Tajik consular officials abroad on the rights of trafficked persons to assistance, protection and repatriation;

(c) Establish a State fund for victim support and ensure the provision of specialized protection and services to victims of trafficking, including free legal aid, at all stages of legal proceedings, regardless of whether a victim consents to cooperate with law enforcement authorities. Ensure that assistance is based on victims' specific needs, provided following a multi-disciplinary approach, in collaboration with civil society organizations and international organizations, and is not conditional upon their participation in criminal proceedings against the traffickers. Ensure that sufficient long-term resources and funding are provided to specialized non-governmental organizations providing assistance to victims of trafficking, so as to ensure their sustainability;

(d) Expand the provision of shelters for trafficked persons, including for parents with children, in cities and rural areas and accessible accommodation for victims with disabilities, and establish shelters for male victims of trafficking;

(e) Strengthen access to employment and vocational training opportunities, including through cooperation with private sector partners, for trafficked persons;

(f) In the case of children returned from conflict zones, ensure that a best interests determination is undertaken by specialized child protection specialists and that identification and assistance for children who are victims of trafficking is ensured, without discrimination;

(g) Strengthen child protection systems, and ensure specialized training on the identification, assistance and protection of children who are victims and who are at risk of trafficking, for all professionals coming into contact with children, including in particular in health-care, education and child protection sectors. Accommodation and protection should be ensured in accordance with the State's obligations under the Convention on the Rights of the Child and the Optional Protocols thereto and be child-friendly, ensuring the best interests of the child. In consultation with the child and in coordination with the local child protection systems, an individual plan should be adopted, and arrangements must be found that favour family-based and community-based solutions, where that is in the child's best interests.

88. Concerning the early identification and protection of victims and potential victims of trafficking among refugees and asylum seekers, the Special Rapporteur recommends that the Government:

(a) Ensure that the registration procedures for asylum seekers and refugees are resumed as a matter of urgency, that the right to seek and to enjoy asylum is fully protected and that access to the territory of Tajikistan is ensured for persons seeking asylum and other forms of international protection;

(b) Ensure respect for the principle of non-refoulement and the implementation of the UNHCR non-return advisory to Afghanistan. Protection against refoulement should be also ensured through the recognition of the gendered risks of persecution in Afghanistan, including trafficking in persons. Following UNHCR Guidelines on International Protection No. 7, consider trafficking in the country of

origin, destination or transit and the risks of trafficking, re-trafficking or reprisals from traffickers as grounds for granting international protection in Tajikistan;

(c) Continue efforts to reduce statelessness, and continue to ensure the birth registration of all children;

(d) Strengthen prevention measures to ensure the protection of refugees and asylum seekers in Tajikistan who may be at risk, in particular widows and members of female-headed households, and ensure access to education and to the labour market, in cooperation with the private sector, to all asylum seekers and refugees, regardless of their official registration status;

(e) Integrate the identification of trafficking victims and potential victims into the work of border officials by enhancing the identification capacity of all stakeholders, including border and law enforcement officials, front-line workers and volunteers, in places where refugees arrive and reside;

(f) Establish coordination between the implementation of asylum procedures and the trafficking protection system in order to ensure that people identified as being at risk of trafficking during asylum procedures are referred to the trafficking protection system and have access to both refugee status and protection as victims or potential victims of trafficking;

(g) Create safe, child-friendly spaces in places where asylum seekers reside and offer children space for recreation, study and rest, separated from other facilities, and ensure that those areas provide a family atmosphere whenever possible;

(h) Ensure that women, girls, men and boys who are vulnerable to sexual and/or labour exploitation are promptly identified and referred to gender-sensitive services on arrival, and develop adequate, human rights-based and gender-sensitive information material available in a language they understand, to ensure access to specialized services.

89. Regarding investigation, prosecution and the criminal justice system, the Special Rapporteur recommends that the Government:

(a) Ensure that investigations are trauma-informed, gender-sensitive and promote gender equality, and take into account the trauma endured by victims and the risks of their re-traumatization. Guarantee that efforts are made to address gender bias and discriminatory attitudes in the context of investigations and the administration of justice to ensure effective access to justice for all victims of trafficking;

(b) Continue strengthening international cooperation to ensure effective investigations into crimes of trafficking of a transnational nature, including financial investigations, and to ensure access to redress for victims, including compensation;

(c) Investigate reprisals against human rights defenders, civil society organizations and lawyers working with victims of trafficking.

90. Regarding access to compensation, the Special Rapporteur recommends that Tajikistan ensure that measures are taken to guarantee effective access to compensation for victims of trafficking, including for wage theft and the full range of harms suffered by victims, including by providing legal assistance to support victims in securing compensation, establishing and maintaining a State compensation fund and ensuring access for victims regardless of their participation in criminal proceedings and independent of the prosecution or conviction of traffickers.

91. Regarding prevention activities, the Special Rapporteur recommends that the Government:

(a) Ensure that labour migration programmes and prevention activities, such as pre-departure orientation programmes, incorporate a gender equality perspective, and prioritize the expansion of safe migration opportunities for women migrant workers;

(b) Strengthen programmes to expand access to employment and the formal labour market for women heads of household of families of Tajik migrant workers remaining in Tajikistan;

(c) Strengthen the licensing and monitoring of recruitment agencies, and implement the ILO general principles and operational guidelines on fair recruitment;

(d) Undertake targeted prevention programmes to address the specific risks of child trafficking, in particular among children belonging to minority groups, children in street situations and children with disabilities, paying particular attention to girls and the risks that they face of early and forced marriage.

92. The Special Rapporteur recommends that the international community, including United Nations and humanitarian agencies:

(a) Strengthen human rights programming to prevent trafficking in persons, in particular internally within Tajikistan, specifically addressing the gender dimension of trafficking and the risks of child trafficking;

(b) Develop programmes to strengthen the prevention of trafficking, engaging especially with regard to the particular risks that may be faced by persons with disabilities, lesbian, gay, bisexual and trans persons, children belonging to minority groups and in street situations and members of female-headed households.
