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تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

زيارة إلى بنغلاديش

تقرير المقررة الخاصة المعنية بالاتجار بالأشخاص، لا سيما النساء والأطفال،

شوفان مولالي*

موجز

أجرت المقررة الخاصة المعنية بالاتجار بالأشخاص، لا سيما النساء والأطفال، شوفان مولالي، زيارة قطرية إلى بنغلاديش في الفترة من 31 تشرين الأول/أكتوبر إلى 9 تشرين الثاني/نوفمبر 2022. وترحب المقررة الخاصة بالتزام بنغلاديش بتنفيذ أهداف التنمية المستدامة وتحقيق خطة التنمية المستدامة لعام 2030. وتسلط المقررة الخاصة الضوء أيضاً على الدور الرائد الذي تؤديه بنغلاديش في تعزيز أهداف الاتفاق العالمي من أجل الهجرة الآمنة والمنظمة والنظامية وفي استضافة ما يقرب من 1 مليون لاجئ من الروهينغا من ميانمار، وتشدّد على الحاجة الملحة لمواصلة الدعم الدولي للاجئين الروهينغا والمجتمعات المضيفة.

وتؤكد المقررة الخاصة ما أعربت عنه من قلق بالغ إزاء الاتجار بالنساء والفتيات لأغراض الاستغلال الجنسي وزواج الأطفال، داخلياً وعبر الحدود، فضلاً عن المخاطر المستمرة التي يشكلها عمل الأطفال وصلته بالاتجار بالأطفال. وتشدّد المقررة الخاصة على الحاجة الملحة إلى تقوية نظم حماية الطفل، وتعزيز حماية حقوق الطفل، وإلى اتخاذ إجراءات للنهوض بالمساواة بين الجنسين ومكافحة العنف الجنساني.

وتشدّد المقررة الخاصة على ضرورة اتخاذ إجراءات عاجلة لتعزيز حماية حقوق اللاجئين الروهينغا، ومنع الاتجار باللاجئين الروهينغا، لا سيما الأطفال والشباب، لأغراض زواج الأطفال والاستغلال الجنسي والعمل القسري، وضمان مساعدة الضحايا وحمايتهم، دون تمييز.

ويسلط تقرير المقررة الخاصة الضوء على المخاطر الكبيرة للاتجار في سياق هجرة اليد العاملة، وعلى ضرورة زيادة فرص الهجرة النظامية، لا سيما بالنسبة للنساء، بما في ذلك تعزيز تنظيم عمليات التوظيف.

* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعَمَّم باللغة التي قُدِّم بها فقط.



Annex

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

I. Introduction

1. The Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, conducted an official visit to Bangladesh from 31 October to 9 November 2022 to assess the situation with regard to trafficking in persons, especially women and children. The Special Rapporteur is grateful to the Government of Bangladesh for its willingness to facilitate her visit and for its constructive dialogue and engagement on human rights and human trafficking. In addition to visiting Dhaka, the Special Rapporteur also had the opportunity to visit Sylhet and Cox's Bazar (including visits to government-run refugee camps and a transit centre). She also visited government-run shelters for children and for women and girls, including victims of trafficking.

2. The Special Rapporteur met with the Minister of Expatriates' Welfare and Overseas Employment and staff of the Ministry; the Attorney General; the Minister for Foreign Affairs; the Secretary of the Ministry of Law, Justice and Parliamentary Affairs; senior officials of the Ministry of Women and Children Affairs; the Director General of Social Welfare; the Director General of Border Guards Bangladesh; the Director General of the Bangladesh Coast Guard; the Inspector General of Prisons; officials of the Ministry of Home Affairs; officials of the Criminal Investigation Division of the Bangladesh Police; officials of the National Legal Aid Services Organization; officials of the Armed Police Battalion of the Bangladesh Police; representatives of the Office of the Refugee Relief and Repatriation Commissioner; representatives of camp administrations and district counter-trafficking committees; and members of the judiciary and prosecutors. During her visit, the Special Rapporteur met with United Nations agencies and international non-governmental organizations (NGOs), Embassy missions and development partners.

3. The Special Rapporteur also met with lawyers and civil society organizations assisting victims of trafficking, including returned migrant workers, sex workers and victims of trafficking for purposes of sexual exploitation, child and forced marriage, forced labour and domestic servitude. The Special Rapporteur is particularly grateful to the many survivors/victims of trafficking, who met with her during her visit and whose testimonies of serious human rights violations informed the analysis and recommendations contained in the present report.

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

International legal framework

4. In 2019, Bangladesh ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and has ratified most of the core international human rights treaties and several conventions of the International Labour Organization (ILO). Bangladesh has also played a leading role internationally in the promotion of the Global Compact on Safe, Orderly and Regular Migration and in advocating expanded opportunities for safe and regular labour migration, including through specialized legislation and policies.¹

¹ See pledges made through the Global Compact on Migration pledging initiative, available at <https://migrationnetwork.un.org/the-pledging-dashboard>, including the establishment of the

The Government has also played a leading role in the Abu Dhabi Dialogue by advocating expanded opportunities for safe and regular labour migration through international cooperation.

Trafficking in persons: domestic legislation

5. Bangladesh has played a leading role within the South Asian region in the development of specialized legislation to combat trafficking in persons. The Prevention and Suppression of Human Trafficking Act (2012) provides a comprehensive framework for action to combat all forms of trafficking in persons, provides for the establishment of specialized anti-trafficking tribunals on trafficking in persons (article 21) and sets out the Government's commitment to ensuring sufficient resources for the conduct of comprehensive investigations (article 19). The Act, chapter V of which is dedicated to the identification and protection of victims, calls on the Government to establish procedures for the identification, rescue, repatriation and rehabilitation of victims, in collaboration with NGOs. Provision is included for repatriation of victims, and for the provision of legal counselling (article 34). Several related offences are included in the Penal Code (1860).

6. The Children's Act (2013), adopted to implement the Convention on the Rights of the Child, provides for child-friendly justice procedures and prescribes punishments for the exploitation of children, including their exploitation in begging, in brothels and in carrying drugs, arms or other illegal commodities. Of particular importance in combating child trafficking is the adoption of the Child Marriage Restraint Act (2017). In the context of labour migration and prevention of trafficking, the Overseas Employment and Migrants Act (2013) seeks to promote opportunities for overseas employment and to establish a safe and fair system of migration and to ensure the rights and welfare of migrant workers and members of their families, in conformity with the ILO International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) and other international labour and human rights treaties. The licensing and regulation of recruitment agencies and the provision of access to remedies for migrant workers is a core objective of this legislation. The 2013 Act is supplemented by the Expatriates' Welfare and Overseas Employment Policy (2016), the Overseas Employment and Migrant Rules (2017) and the Wage Earners' Welfare Board Act (2018).

7. Significant recent developments include the repeal of section 155 (4) of the Evidence Act (1872), which allowed questioning of the moral character and past sexual history of complainants. The Special Rapporteur highlights the importance of ensuring clarification of its application in cases of trafficking for purposes of sexual exploitation and in the training of judges and lawyers to ensure its implementation in practice. The adoption of the Evidence (Amendment) Act (2022), providing for the admissibility of digital evidence, is also a welcome measure and potentially significant in legal proceedings on trafficking in persons.

National policy and coordination

8. Significant steps have been taken by the Government to develop national measures, including the adoption of the National Action Plan for the Suppression and Prevention of Human Trafficking 2018–2022. The action plan integrated the strategies and actions provided for in the seventh and eighth five-year plans, which are aligned with the implementation of the Sustainable Development Goals. The action focuses on five areas of action, namely: (a) prevention of human trafficking; (b) holistic protection of trafficking victims; (c) prosecution of traffickers; (d) partnership and cross-country legal assistance; and (e) monitoring and evaluation. Preparations are ongoing for a new national referral mechanism. The National Coordination Committee to Combat Human Trafficking of the Ministry of Home Affairs is responsible for coordinating, monitoring and evaluating the implementation of the action plan. However, the Special Rapporteur is concerned that, in

Bangladesh Migration Governance Framework by June 2023. See also the proposed amendment to the Overseas Employment and Migrants Act (2013).

practice, meetings of the National Committee are infrequent and coordination between Government ministries appears to be limited.

9. The Special Rapporteur notes and commends the establishment of counter-trafficking committees at the district, sub-district (upazila) and sub-sub-district (union parishad) levels, with membership comprising local administrative officers and civil society and community leaders. The Special Rapporteur notes that while counter-trafficking committees should serve as mechanisms to prevent human trafficking and refer victims to protection services, many are not effective in practice.

III. Prevention of trafficking in persons

Internal trafficking in Bangladesh

10. The Special Rapporteur is concerned about the limited attention given to the internal trafficking of persons within Bangladesh, including, in particular, for purposes of sexual exploitation, child marriage, child labour and forced labour, as well as the exploitation of persons in criminal activities.

Prevention of child of trafficking

11. In the context of the prevention of child trafficking, significant measures have been taken to combat child labour, including the early identification of children at risk and the provision of educational and training opportunities to support exit from child labour, including the worst forms of child labour, which may constitute trafficking. The National Plan of Action to Eliminate Child Labour (2021–2025) sets out strategic objectives to eliminate child labour by 2025, in line with the Sustainable Development Goals implementation plan, the 2030 Agenda and the perspective plan for 2041. The National Child Welfare Labour Council is responsible for the implementation of the National Action Plan (2018–2023). The Special Rapporteur notes that continued action to eliminate child labour is essential, in particular in high-risk sectors, such as hospitality and tourism, domestic work, the shrimp and dried fish industries, the construction sector, brick factories and tanneries, agriculture and forestry and the garment sector. The commitment in the National Action Plan for the provision of stipends and financial incentives to children, along with the provision of specialized schools, is critical. Improving livelihoods for families, the economic empowerment of families, the strengthening of child protection systems and the expansion of the scope, mandate and resources of labour inspectorates will be essential to the success of such programmes. Notably, the action plan includes specific protections for children with disabilities, indigenous children and children affected by “natural calamities”.

12. The Special Rapporteur highlights that the majority of child labourers work in the informal sector, which includes food shop and tea stalls; motor and steel workshops; grocery and furniture shops; clothing and tailoring; and waste collection. As reported by the United Nations Children’s Fund (UNICEF) and noted by the ILO Committee of Experts on the Application of Conventions and Recommendations,² over the last decade, the number of children engaged in hazardous work decreased by just 0.01 million, from 1.29 to 1.28 million. Moreover, as highlighted by the ILO Committee of Experts, over 1 million children identified as “hazardous child labourers” are invisible to formal authorities.³ The Committee on Economic, Social and Cultural Rights has also expressed concern about the large number of children still engaged in employment or work, their dire conditions of work, particularly in domestic settings, and the lack of sufficient labour inspections focusing on child

² United Nations Children’s Fund (UNICEF), “Evidence on educational strategies to address child labour in India and Bangladesh” (2021).

³ International Labour Organization (ILO), Committee of Experts on the Application of Conventions and Recommendations, observation (2021), available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4117373,103500:NO.

labour.⁴ While the National Action Plan (2018–2023) is aimed at strengthening institutions monitoring child labour, including in the informal sector, its implementation, to date, has been limited and progress has been slow. The Special Rapporteur notes that, under the ILO Minimum Age (Industry) Convention (Revised), 1937 (No. 59), inspectors are mandated for the inspection of child labour in the formal sector. However, child labour is mostly concentrated in the informal sector.⁵

13. In the National Child Labour Survey 2015 it was reported that 91 per cent of child domestic workers were girls. The Special Rapporteur highlights that the Domestic Workers' Protection and Welfare Policy (2015) provides the legal framework for the protection of domestic workers, including child domestic workers. While the minimum age for light domestic work is age 14, and hazardous domestic work at age 18, children as young as 12 may be employed with the consent of the legal guardian of the child. Such exceptions, combined with limited State capacity for the protection of child domestic workers, greatly increase the risk of exploitation, including child trafficking for purposes of domestic servitude. Limited awareness of the 2015 policy and the limited capacity and effectiveness of the central monitoring cell to ensure the security of domestic workers, specifically with regard to children, adds to the risks of trafficking.

14. The Special Rapporteur highlights increases in child marriage during the coronavirus disease (COVID-19) pandemic, with particular risks of trafficking for purposes of child marriage, sexual exploitation and child labour. Bangladesh has one of the highest rates of child marriage in the world. The Special Rapporteur notes the significant action being taken by the Ministry of Women and Children Affairs, in partnership with international and local partners, including the “Actions to prevent child marriage in Bangladesh” campaign, designed to encourage families to condemn the harmful practice of child marriage and help advance the National Plan of Action to End Child Marriage (2018–2030). However, poverty, gender inequality and weak child protection systems limit the impact of such measures. While welcoming the Child Marriage Restraint Act (2017), the Special Rapporteur is concerned about the absence of provisions declaring child marriages as void, the exception permitting child marriage without any minimum legal age in “special circumstances ... in the best interests of the minor”, provided there is parental consent and a court order, and the lack of clarity on the primacy of the Act over personal laws.⁶ These factors, and the low rate of birth registration, hinder the effectiveness of the Act.⁷

15. The Special Rapporteur highlights the situation of children in street situations (estimated to be approximately 1.5 million), who are particularly vulnerable to trafficking for purposes of sexual exploitation, child labour and exploitation in criminal activities. The Special Rapporteur highlights the prevalence of discrimination, violence and stereotypes that may contribute to the failure to identify boys as victims of trafficking for purposes of sexual exploitation and to significant gaps in protection. She welcomed the commitment from the Ministry of Women and Children Affairs and the Ministry of Social Welfare to strengthen child protection systems, including by increasing the number of social workers and the creation of dedicated accommodation for children in street situations, with the goal of family reintegration if in the best interests of the child. The Special Rapporteur highlights concerns raised in relation to children belonging to minority or indigenous groups, in particular Dalit children and indigenous children,⁸ who face discrimination and violence and may be at heightened risk of child trafficking, in particular those living in street situations.

16. With regard to technology-facilitated trafficking, particularly for purposes of sexual exploitation, the Pornography Control Act (2012), the Digital Security Act (2018) and establishment of child helplines are important measures. However, effective prevention

⁴ E/C.12/BGD/CO/1, para. 54.

⁵ ILO, Committee of Experts on the Application of Conventions and Recommendations, observation (2021), available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4117373,103500:NO.

⁶ E/C.12/BGD/CO/1, para. 50.

⁷ Ibid., para. 47.

⁸ CRC/C/BGD/CO/5, para. 72.

measures remain limited, with increased reports of the use of social media and digital technologies to target children for purposes of sexual exploitation.

17. The Special Rapporteur highlights the importance of universal, freely accessible birth registration to reduce the risk of trafficking of children, noting the concerns of the Committee on Economic Social and Cultural Rights that the low rate of birth registration limits the access of affected children, including refugee children, to social security benefits, health-care services, education and other basic services.⁹ The reforms introduced to birth registration processes, eliminating the requirement for the provision of the identities of both parents and for an address, are welcome and positive measures that will prevent child trafficking. However, the Special Rapporteur highlights specific concerns in relation to access to birth registration for the children of sex workers and children in street situations resulting from discrimination and continuing administrative hurdles in practice.

18. The Special Rapporteur welcomes the establishment of a specialized committee within the Supreme Court of Bangladesh, focusing specifically on the rights of the child and the development of child-friendly justice procedures. This development should promote further specialization and attention to trafficking of children within the judiciary.

Trafficking for purposes of sexual exploitation

19. Trafficking of women and girls for sexual exploitation within Bangladesh and across its borders, especially to India, remains prevalent. The Special Rapporteur stresses the need for strengthened measures for the prevention of trafficking for purposes of sexual exploitation, particularly of women and girls. During her visit to Bangladesh, the Special Rapporteur met with sex workers and representatives of civil society organizations supporting sex workers. It was noted that trafficking for purposes of sexual exploitation is prevalent¹⁰ and that limited action is taken to identify victims or to provide protection, even when assistance is sought from police or social services. The Special Rapporteur notes the concerns raised by the Committee on the Elimination of Discrimination against Women, in relation to “discrimination and violence against women in prostitution and their children, who face stigmatization, forced evictions and frequent police harassment and are often denied access to education and health care”.¹¹ The Special Rapporteur highlights particular risks for children of sex workers and reports of children going missing, abducted or sold for purposes of child marriage and sexual exploitation, particularly from brothels in border areas between Bangladesh and India.

20. The Special Rapporteur is concerned at the failure to provide assistance and protection to sex workers owing to the continuing prevalence of discriminatory attitudes towards sex workers on the part of police, health-care workers and social services and in wider society. Limited support for civil society organizations providing support to sex workers also hinders the reporting of risks of exploitation, as well as opportunities for exit through education, training or alternative livelihoods.

Prevention of trafficking in the context of labour migration

21. The Special Rapporteur notes that positive steps have been taken to ensure safe migration, including the adoption of bilateral labour agreements to assist migrant workers. Each year, more than 500,000 workers leave Bangladesh for overseas employment. Remittances from migrant workers account for almost 7 per cent of the total gross domestic product (GDP). The primary countries of destination for Bangladeshi migrant workers are India and Pakistan, countries members of the Gulf Cooperation Council and countries in Southeast Asia (primarily Indonesia, Malaysia and Thailand).

⁹ E/C.12/BGD/CO/1, para. 47.

¹⁰ The Prevention and Suppression of Human Trafficking Act (2012) introduces penalties for keeping a brothel or allowing any place to be used as a brothel (para. 12), in addition to the criminalization of trafficking for the purpose of the prostitution of others.

¹¹ CEDAW/C/BGD/CO/8, para. 20.

22. The Special Rapporteur noted significant efforts undertaken in the prevention of trafficking in persons, including the provision of predeparture orientation programmes for migrant workers (compulsory since 2007), as well as measures such as the establishment in 2016 of a vigilance task force under the Ministry of Expatriates' Welfare and Overseas Employment, comprising 23 members, with the objective of strengthening the monitoring of recruitment agencies and reducing malpractice. However, concerns were raised with the Special Rapporteur about the effectiveness of the task force to date. The Special Rapporteur highlights the significant work undertaken by civil society organizations in the prevention of trafficking in persons, including through the provision of accessible, free-of-charge predeparture orientation at the district level, peer-to-peer migrant workers programmes and information desks at airport departure areas.

23. Chapter III of the Overseas Employment and Migrants Act (2013) relates specifically to the licensing requirements for agencies. However, the Special Rapporteur highlights the limited scope and reach of the Act with regard to the operations of recruitment intermediaries. Labour migration in Bangladesh is facilitated through a complex web of licensed agencies and by intermediaries (*dalals*), who operate at district and village levels, connecting migrant workers with recruitment agencies in Dhaka. The costs of migration for workers are high; it is reported that, on average, Bangladeshi migrant workers pay \$3,000 for recruitment and related fees. These high costs lead to indebtedness and increase risks of trafficking in persons.

24. Current proposals for amendment to the 2013 Act seek to hold recruitment agencies liable for the activities of subagents or intermediaries. The Special Rapporteur is concerned about continuing allegations of impunity on the part of recruitment agencies alleged to be involved in trafficking for purposes of forced labour and the limited monitoring of such agencies, with related persistent allegations of corruption in relation to the police, the judiciary and government officials.

25. The adoption of bilateral labour agreements, intended to expand opportunities for safe and regular migration and to provide protections for migrant workers, is a welcome and important protective measure. The 2013 Act (sect. 25) states that the objectives of bilateral agreements on migration are to increase opportunities for overseas employment for Bangladeshi citizens, to improve the management of labour migration, repatriation and reintegration of migrant workers in the home country and to ensure welfare and the rights of migrant workers, including members of their families. However, the Special Rapporteur is concerned that enforcement of the protection measures contained in bilateral labour agreements remains weak. Many victims reported a lack of assistance by Embassy and consular officials in countries of destination. The Special Rapporteur met with returned migrant workers, including victims of trafficking for purposes of forced labour, and heard first-hand accounts of their experiences of torture, inhuman and degrading treatment and exploitation both in countries of destination and in transit. Victims reported receiving deceptive job offers prior to departure from Bangladesh and paying large sums of money as part of the recruitment and migration process. The use of technology in circulating deceptive job offers was noted by many victims.

26. The Special Rapporteur is concerned about the limited attention given to the gender dimension of risks of trafficking for purposes of forced labour, particularly for migrant domestic workers, noting that the organization of predeparture orientation in Dhaka limits accessibility for women migrants from rural areas.

Prevention of trafficking for purpose of forced labour

27. The Special Rapporteur notes the ongoing programme of labour law reforms, including the amendment of the Bangladesh Labour Rules (2015), the Bangladesh Labour Act (2006), the Export Processing Zones Labour Act (2019) and the adoption of labour rules on export processing zones. Noting the importance of effective labour inspection measures for the prevention of trafficking, the Special Rapporteur highlights the urgency of addressing concerns raised by the ILO Committee of Experts in relation to implementation of the ILO Labour Inspection Convention, 1947 (No. 81) and ensuring that labour inspectors are

permitted to freely enter establishments in export processing zones and special economic zones without restrictions.

28. The Special Rapporteur highlights concerns at the limited follow-up on violations of the Bangladesh Labour Act (2019).¹² The Special Rapporteur highlights that gaps in implementation and enforcement of the Labour Act, increase risks of trafficking for purposes of forced labour. Sanctions for violations of the Labour Act are not effective, proportionate or dissuasive, with weak enforcement and continuing reports of corruption.

29. Recalling the important role of trade unions and civil society in the prevention of trafficking in persons and in providing assistance to victims or persons at risk of trafficking, the Special Rapporteur is concerned about reports of limitations on the exercise of the rights of freedom of association and assembly and gaps in the implementation of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Complaints alleging violations of freedom of association rights, including arbitrary arrest and detention of trade union leaders and activists, death threats and physical abuse while in detention, false criminal charges, surveillance, intimidation and interference in union activities, as well as mass dismissals of workers by garment factories following a peaceful protest, are still pending with the ILO. The Special Rapporteur is seriously concerned about these allegations and stresses the importance of compliance with the State's obligations under international human rights law to protect rights to freedom of association.

30. The Special Rapporteur notes continuing concerns in relation to working conditions on tea plantations and the history of indentured labour, marginalization of and discrimination against workers on the plantations during and since the colonial era. While noting legislative reforms, including the application of the Bangladesh Labour Act (2006) and the Tea Act (2016), the Special Rapporteur highlights that limited enforcement, poor working conditions and rates of pay, combined with a history of discrimination and socioeconomic disadvantage, increase risks of trafficking for purposes of forced labour.

31. The Special Rapporteur noted relevant international developments concerning trafficking in supply chains, such as the proposal for the adoption by the European Parliament and the Council of the directive on corporate sustainability due diligence and amending directive (EU) 2019/1937, which will expand reporting and monitoring obligations on the prevention of trafficking in persons.

IV. Assistance and protection of trafficked persons

32. The Special Rapporteur highlights the positive obligation of the State to identify, assist and ensure protection to victims of trafficking and persons at risk of trafficking. A victim is not required to self-identify; experiences of trauma, as well as fear of reprisals may hinder disclosure and reporting. The Special Rapporteur highlights that the provision of assistance should be premised on the protection of human rights rather than on a rescue and rehabilitation model.

33. The Special Rapporteur notes ongoing work in relation to the establishment of a national referral mechanism. Pending its establishment, limited information was available on the procedures for identification and assistance to victims. The Special Rapporteur notes that limited attention is given to the identification of victims of trafficking for purposes of forced labour, in particular in domestic servitude. The Special Rapporteur is also concerned about the lack of attention to the identification of victims with disabilities and the lack of accessible services and assistance to ensure their reasonable accommodation in protection measures.

34. During her visit, the Special Rapporteur visited two government-run rehabilitation/safe homes where victims of trafficking for purposes of sexual exploitation and

¹² ILO, Committee of Experts on the Application of Conventions and Recommendations, observation (2021), available at https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4118582,103500:NO.

other forms of sexual and gender-based violence were accommodated. The Special Rapporteur notes with concern that restrictions on freedom of movement are routinely imposed in such shelters and that women and girls are deprived of their liberty and detained, with limited provision of psychosocial assistance, education, training or access to employment. Many women and girls, when interviewed, expressed their desire to leave. Victims/survivors, despite indicators of having been trafficked or at risk of being trafficked for purposes of sexual exploitation, were rarely identified as such, nor were they provided with specialized assistance or protection as trafficked persons. The Special Rapporteur is concerned that discrimination and violence, particularly against women and girls engaged in sex work or in extramarital relationships, may lead to their arrest and detention in closed shelters, given the limited scrutiny of the ongoing deprivation of liberty, including for victims of trafficking.

35. The Special Rapporteur notes that the provision of assistance to victims of trafficking is primarily undertaken by NGOs, in cooperation with development partners and international organizations. NGOs and international organizations play a crucial role in providing assistance to victims/survivors, including in the provision of accommodation, psychosocial assistance and counselling, access to medical services and the development of education, training and employment opportunities. Resources are limited, however, and difficulties arise in providing longer-term assistance and safe accommodation. The Special Rapporteur was concerned about reports of reprisals against returned victims or their families who file police reports, as well as against NGOs and lawyers.

36. The Special Rapporteur also visited shelters run by NGOs and was impressed by the specialized, trauma-informed and gender-sensitive assistance provided to victims of trafficking for purposes of exploitation. Of particular note, was the attention to survivor-led recovery and reintegration programmes and to longer-term social inclusion. Specialized legal assistance was also provided to support victims seeking compensation, filing police complaints and pursuing civil proceedings for the recovery of unpaid wages and recruitment fees. Such assistance and protection are essential to combat impunity for trafficking in persons, to prevent re-trafficking and to support victims/survivors in accessing employment, training and new livelihoods. The Special Rapporteur was concerned about the limited availability of accommodation for victims of trafficking outside of Dhaka and about the lack of accessible accommodation for victims with disabilities. The Special Rapporteur welcomed the provision of accommodation for male victims by civil society and the tailored programme of assistance but was concerned about the limited availability of such accommodation, given the significant needs and gaps in assistance and protection.

37. The Special Rapporteur notes that Coast Guard of Bangladesh plays a key role in identification and assistance of victims of trafficking at sea. A memorandum of understanding between the Coast Guard of India and the Coast Guard of Bangladesh provides for cooperation in search and rescue operations, inter alia, in relation to human trafficking, with the objective of ensuring both the safety of lives and “good governance” at sea. The Special Rapporteur notes with grave concern the high number of people rescued at sea, who may be victims of trafficking, and the tragic loss of many lives at sea. She stresses the importance of referral pathways to ensure that victims or persons at risk of trafficking are referred for assistance and protection, not detained or punished.

38. The Special Rapporteur highlights the joint allegation letter sent to the Government of Bangladesh relating to information received concerning the “registration and verification” exercise in Al-Hol and Roj camps, located in the north-east of the Syrian Arab Republic, where Bangladeshi nationals, primarily women and children, are currently deprived of their liberty. Many of these people are victims of trafficking and terrorism and are at an ongoing risk of trafficking.¹³ The Special Rapporteur highlights the urgency of facilitating the repatriation of trafficked women and children from Al-Hol and Roj camps, of providing them with consular assistance and of ensuring that all assistance and protection services are available to them as victims of trafficking, without discrimination.

¹³ AL BGD 1/2021. This communication is available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25930>.

Assistance and protection of victims of trafficking in the context of labour migration

39. Chapter VII of the Overseas Employment and Migrants Act (2013) sets out the rights of migrant workers, including to information, “reasonable legal aid”, to return home and to file civil suits for compensation. Section 29 (3) of the Act provides that the Government may direct a recruitment agent to cover the costs of repatriation, where a “situation of distress” arises due to negligence or illegal activity by an agent. The Prevention and Suppression of Human Trafficking Act (2012) sets out procedures for the return and repatriation of victims of trafficking and the responsibilities of embassies, the Ministry of Foreign Affairs and/or the Ministry of Expatriates’ Welfare and Overseas Employment (sect. 33). The Overseas Employment and Migrants Act also provides for the establishment of a labour welfare wing to support migrant workers abroad (sect. 24). The Special Rapporteur notes the coordination of voluntary returns by the International Organization for Migration.

40. The Special Rapporteur is concerned, however, that many victims of trafficking, both men and women, must rely upon family members to facilitate and cover the high costs of return. The Special Rapporteur is also concerned about: persistent reports of limited consular assistance on arrival in countries of destination and lack of assistance provided to victims of trafficking by embassies; the limited assistance for returned victims of trafficking, in particular, limited access to accommodation, psychosocial and medical assistance or longer-term social inclusion measures; and, in particular, that returning women victims of trafficking face risks of stigma, discrimination and poverty, with increased risks of vulnerability to re-trafficking. Overall, there is limited access to compensation or legal aid.

41. The Special Rapporteur met with several women victims of trafficking for purposes of domestic servitude who had returned from Saudi Arabia. The women reported persistent failures of protection and continuing impunity for employers and recruitment agencies and intermediaries. The Special Rapporteur notes that the Overseas Employment and Migrants Act (2013) allows for the imposition of restrictions on migration to a particular country, where it is considered to be “against the public or State interest or that their health and safety may be jeopardized”, and highlights the urgency of reviewing ongoing migration to Saudi Arabia for employment. The Special Rapporteur notes proposals to amend the Act in order to include provisions for special financial and other customized services for women migrant workers as well as measures to support reintegration, although limited information was available on the scope and content of the proposed amendment or its progress.

42. During her visit, the Special Rapporteur had the opportunity to interview many victims of trafficking for purposes of forced labour and sexual exploitation abroad who have suffered serious human rights abuses, including rape and sexual and physical violence, with complex needs due to the trauma suffered. The Special Rapporteur highlights the important work undertaken by NGOs in providing assistance to returned victims. However, their capacity to provide longer-term assistance and protection is limited. The Special Rapporteur also highlights that male victims of trafficking, particularly of sexual exploitation and victims of trafficking for purposes of forced labour, who may also be victims of sexual violence, face particular obstacles to disclosure and that there is limited specialized assistance for them.

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

43. The Special Rapporteur is concerned about the continuing prevalence of discrimination, harassment and violence against lesbian, gay, bisexual and trans groups and persons of diverse gender identities, which increase the risks of serious human rights violations, in particular through trafficking for purposes of sexual exploitation. The Special Rapporteur is concerned about the failure to ensure identification of victims of trafficking among lesbian, gay, bisexual and trans communities and among persons of diverse gender identities and the consequent failure to ensure protection or effective prevention of trafficking, particularly for purposes of sexual exploitation. Discrimination on the part of the police and health services and lack of access to the labour market increases the marginalization and vulnerability of these communities to trafficking, leading some to take

risky migratory routes, with limited opportunity for safe and legal migration. The prevalence of HIV/AIDS among lesbian, gay, bisexual and trans persons and persons of diverse gender identities who were victims of trafficking reflects wide gaps in the provision of health care and protection services, including psychosocial assistance.

V. Effective investigations and access to justice

44. The development of specialized capacity to combat trafficking in persons within the police force is welcome. The Special Rapporteur notes that the Bangladesh Police has set up a two-tier monitoring cell, one at police headquarters in each district, which monitors all cases related to trafficking in persons, and one headed by the Additional Superintendent of Police, which oversees the functions of the 64 district monitoring cells. The rescue, recovery, repatriation and integration task force coordinates initiatives to prevent the cross-border trafficking of persons, including the development of standard operating procedures.

45. The development and expansion of mutual legal assistance measures with countries of destination is a positive development. Further strengthening of mutual assistance and international cooperation will be necessary to combat impunity for trafficking and to protect victims, including in the search for missing persons and in investigations and prosecutions. Increased capacity to combat technology-facilitated trafficking, including for purposes of child and forced marriage, sexual exploitation and forced labour, is needed. At the present time, when exploitation occurs outside of Bangladesh, investigations and prosecutions rarely proceed.

46. The Special Rapporteur is concerned that limited attention is given to the investigation of internal trafficking for all purposes of exploitation. The Special Rapporteur highlights the concerns raised by the ILO Committee of Experts to strengthen the capacity of law enforcement agencies to detect and investigate forced labour cases and to provide information on results achieved or progress made in this regard. Further information is required in order to properly assess the number of investigations, prosecutions, convictions and sanctions applied for the offence of child trafficking.

47. The Special Rapporteur welcomed the development of specialized anti-trafficking tribunals, (seven to date). Further expansion of anti-trafficking tribunals will be important to ensure comprehensive reach across the State. The absence of a specialized anti-trafficking tribunal in Cox's Bazar was a matter of serious concern. In the absence of a specialized tribunal, trafficking cases are brought to women and children's courts (*Nari-o-Shishu Nirjatan Daman* tribunals). Significant delays are experienced, however, owing to the backlog of cases and limited resources. The Special Rapporteur notes a lack of clarity in relation to the appropriate forum for the prosecution of cases in which the victims are adult males, in the absence of an anti-trafficking tribunal. Despite legislative provision for timely investigation and prosecution of offences, significant delays continue to be experienced, limiting access to justice and effective remedies for victims.

48. Concerns were raised with the Special Rapporteur in relation to the quality of evidence presented to courts and the limited capacity of investigation teams, particularly in relation to the gathering and assessment of digital evidence, for technology-facilitated trafficking offences. Although significant specialization is developing, there continues to be limited capacity to undertake financial investigations into trafficking offences or to investigate trafficking offences with cross-border elements. Concerns were raised in relation to ineffective investigations of recruitment agencies, despite legislative provisions for the joint and several liability of both recruitment agents and employers in the Overseas Employment and Migrants Act (2013) (sect. 22).

49. The roll-out of specialized training for judges and prosecutors on trafficking in persons and the rights of the victims is also a welcome measure. Promising developments to date include the development of a bench book for prosecutors and judges, which will include guidelines on financial investigation tools and techniques, compensation procedures, victim assistance and support and witness protection. The Special Rapporteur is concerned about the limited awareness of the non-punishment principle among the police, prosecutors and the judiciary. Concerns were raised with the Special Rapporteur in relation to the continuing

prevalence of discriminatory attitudes towards victims of trafficking for purposes of sexual exploitation by all justice sector actors, including the judiciary, and the limited awareness of the relevance of new developments, such as the exclusion of questioning in relation to the past sexual history of a victim.

Access to compensation

50. The Special Rapporteur is concerned that access to compensation for victims of trafficking is extremely limited. Significant delays in legal proceedings limit access to effective remedies. The Prevention and Suppression of Human Trafficking Act (2012) (chap. VII) provides for the establishment of a State compensation fund. The Act also makes provision for the award of compensation (both as part of the criminal proceedings, sect. 28, or as a result of a civil suit, sect. 39) and on the seizure of assets (sect. 27). However, in practice, compensation awards are rarely made in criminal proceedings and victims experience significant delays in civil suits, with continuing weaknesses in the enforcement of awards. Provision is also made for an arbitration procedure established by the Overseas Employment and Migrants Act (2013) (sect. 41), which is managed through the Bureau of Manpower, Employment and Training.

51. Despite provision in the Act for the completion of investigations by the relevant Government authority within 30 days, victims reported experiencing lengthy delays. The operational procedures for the arbitration procedure are set in the Overseas Employment and Migrant Rules (2017), which also regulate recruitment processes. However, the Special Rapporteur noted concerns raised in relation to the functioning of the arbitration processes, including inequalities between victims/complainants and recruitment agencies and allegations that complainants frequently agreed to reduced settlements owing to fear of reprisals and intimidation. The Special Rapporteur notes that while arbitration and alternative dispute resolution procedures may provide a route to access to justice for victims, they should not undermine investigations and prosecutions for the serious crime and human rights violation of trafficking in persons, nor should they impede accountability for such crimes.

Rights of persons with disabilities

52. The Special Rapporteur is concerned that persons with disabilities, in particular women and girls, may be at increased risks of trafficking owing to discrimination and limited access to education and ways to obtain independent livelihoods. She was concerned that situations of dependency, including in institutionalized and congregated settings, may lead to abuses of positions of vulnerability, given the limited independent monitoring and inspections of such institutions. Stigma and discrimination against children with disabilities remains a serious concern, increasing risks of trafficking for purposes of exploitation, including begging, particularly sexual exploitation. Difficulties in reporting trafficking or risks of trafficking may also arise as measures are not in place to ensure accessibility of assistance and protection measures to persons with disabilities. The Special Rapporteur was also informed of difficulties arising in legal proceedings owing to inadequate accommodation or procedural measures to ensure the effective participation of persons with disabilities. Specific concerns about the risks to trafficking of persons with disabilities in Cox's Bazar were also raised, particularly with regard to children in vulnerable situation. The Special Rapporteur noted that it will be important to ensure that the rights of persons with disabilities, in particular women and girls, are addressed in the National Action Plan for the Suppression and Prevention of Human Trafficking 2018–2022 and the new national referral mechanism, as well as through accessible information, assistance and protection.

Independence of judges and lawyers

53. The Special Rapporteur is concerned about reports of harassment and threats of reprisals against lawyers, particularly in cases of complaints raised in relation to the operations of recruitment agencies and trafficking for purposes of forced labour. Concerns were raised with the Special Rapporteur in relation to risks of corruption within the judiciary

and the prevalence of discriminatory attitudes towards victims of trafficking, in particular for purposes of sexual exploitation.

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

54. The Special Rapporteur is concerned about reports of harassment and threats of reprisals against NGOs and lawyers, in particular when complaints have been raised in relation to the operations of recruitment agencies. The Special Rapporteur highlights the important role played by civil society organizations and trade unions in the prevention of trafficking in persons and in the provision of assistance to victims/survivors. NGOs and trade unions currently play a critical role in preventing trafficking in persons through information and outreach activities and community engagement, the provision of assistance and protection to victims, including legal assistance in claiming compensation and in supporting victims through criminal investigations and trial proceedings. The role of NGOs in promoting gender equality and women's empowerment, including for female sex workers and their children, is important and essential to the support of exit strategies for female sex workers and to prevent trafficking for purposes of sexual exploitation. The Special Rapporteur also highlights the increasing attention given to risks of trafficking for purposes of sexual exploitation of boys and young adult males, particularly boys in street situations. Civil society plays an important role in ensuring safe and regular migration and, as such, is an important partner in ensuring the rights of migrant workers and their families and in the prevention of trafficking for purposes of forced labour, including domestic servitude. The Special Rapporteur stresses the importance of ensuring that civil society and trade unions are fully integrated into the new national referral mechanism.

VII. Risks of trafficking in persons related to climate change, displacement and disasters

55. The Special Rapporteur is concerned about the limited attention given to the prevention of trafficking of persons, especially women and children, as a result of climate-related displacement and disasters. Loss of livelihoods and displacement resulting from climate change and climate-related disasters, including slow onset and sudden onset disasters, environmental degradation and loss of biodiversity, creates additional risks of vulnerability to trafficking. Bangladesh is considered to be one of the most climate-vulnerable countries in the world, although its contribution to global warming is negligible (less than 0.48 per cent of global emissions). People living in coastal regions are at particular risk of displacement, loss and damage. The Special Rapporteur notes the incorporation of a gender-equality agenda into the updated Bangladesh climate change strategy and action plan, as well as in climate change and disaster management responses. The Special Rapporteur highlights significant policy developments, including the Plan of Action for the Implementation of the Sendai Framework for Disaster Risk Reduction 2015–2030, the National Strategy on Internal Displacement Management 2021 and the National Plan for Disaster Management 2021–2025.

56. The Special Rapporteur is concerned, however, that internal displacement and rural to urban migration, against the background of weak social and child protection systems, increases risks of exploitation, as children and families have limited access to shelter or employment, children drop out of school and families are forced to relocate. Further support from the international community for loss and damage, through human rights-based climate financing, should target action on the prevention of trafficking in persons, in particular of women and children. Planned relocation and resettlement, as well as greater participation of women, in particular rural women and young people, in climate change adaptation and mitigation planning, including in the National Adaptation Plan of Bangladesh (2023–2050), will be essential to reduce vulnerabilities to trafficking in persons. The Special Rapporteur welcomes the recognition of the risks of trafficking in the context of climate-related and natural disasters at the Eighth Ministerial Conference of the Bali Process on People

Smuggling, Trafficking in Persons and Related Transnational Crime and in the 2023 Adelaide Strategy for Cooperation.

VIII. Specific human rights concerns regarding the situation of Rohingya

57. The Special Rapporteur highlights the significant decision of the Government of Bangladesh to host almost 1 million Rohingya refugees from Myanmar. While many countries were closing borders, Bangladesh took this very positive step. The independent international fact-finding mission on Myanmar concluded that the root causes of this forced displacement included crimes against humanity and other grave human rights violations. The Special Rapporteur highlights that access to international protection, safe and regular migration and protection for refugees are essential measures to prevent trafficking in persons, especially women and children, who are at heightened risk in situations of forced migration and displacement. Rohingya refugees have few legal routes to cross borders, either by land or sea, and few options for secure, safe and decent work. As a result, the members of the Rohingya community are unable to choose safe or regular migration options to travel, increasing their vulnerability to trafficking.

58. The people of Bangladesh have played a critical, life-saving role in hosting Rohingya refugees, despite the significant challenges they face in a densely populated country, experiencing high levels of poverty and unemployment and the devastating effects of climate change. Under the joint Office of the United Nations High Commissioner for Refugees (UNHCR)/Government of Bangladesh registration process, the Rohingya are registered not as refugees, but as “forcibly displaced Myanmar nationals”,¹⁴ rendering their situation, without refugee status, uncertain, leaving them stateless. Further, there is no pathway to citizenship in Bangladesh. The real risk of serious human rights violations and persecution, including trafficking in persons in Myanmar remains. Continuing fear and uncertainty about the future has created a climate of insecurity and desperation, especially for young people, increasing their vulnerability to trafficking.

59. The Special Rapporteur is concerned at the increasing numbers of people, mostly Rohingya, taking perilous journeys on the Andaman Sea. According to the latest data from UNHCR, more than 3,500 Rohingya attempted the deadly sea crossings in boats across the Andaman Sea and the Bay of Bengal in 2022, representing a 360 per cent increase over 2021. The Special Rapporteur highlights the urgent need for a comprehensive regional response and shared responsibility on the part of the international community. The Special Rapporteur heard accounts of victims being rescued at sea, including children, brought to police stations and detained for several days, with no psychosocial assistance, legal representation or medical assistance. She heard accounts directly from child victims who were rescued at sea while seeking to travel to Malaysia, including accounts of being detained in police stations alongside adults, without protection or assistance, following deeply traumatic experiences, including the drowning or disappearance of family members, other children and young people.

60. While commending all those involved in search and rescue at sea and in disembarkation to coastal areas, the Special Rapporteur highlights the positive obligation on the State and all actors to identify victims of trafficking and to ensure referral for specialized assistance and protection, including protection from the risks of re-trafficking. The Special Rapporteur recognizes the work undertaken in providing best interests determinations for children identified as possible victims of trafficking prior to return to families but is concerned that the involvement of family or community members and limited trust in authorities, as well as fear of reprisals, may lead to ongoing gaps in protection, underreporting and failures in the identification of trafficking.

¹⁴ See: 2023 Joint Response Plan: Rohingya Humanitarian Crisis, <https://reporting.unhcr.org/document/4378>. See also, submission received from the Institute on Statelessness and Inclusion.

61. The Special Rapporteur was informed of attempts by refugees to reach Southeast Asia by land, rather than travelling by sea from Bangladesh. The Special Rapporteur highlights the very serious risks of trafficking, especially of women and children, for those taking land routes through Myanmar, including increased risks of serious human rights violations.

62. The Special Rapporteur visited Cox's Bazar, government-run refugee camp 20 and a transit centre, where she met with camp authorities, officials of the Armed Police Battalion, community leaders, children and young people, representatives of humanitarian organizations and human rights defenders. The Special Rapporteur had the honour to speak with many Rohingya refugees in Cox's Bazar and to observe the work of community and youth groups and community organizations seeking to improve living conditions within the camps and to proactively prevent trafficking in persons, particularly of children and young people. She interviewed survivors of trafficking who recounted experiences of serious human rights violations and continuing trauma, with very limited psychosocial assistance, health care or longer-term assistance provided. The Special Rapporteur heard deeply disturbing accounts of children and young people disappearing on dangerous journeys at sea, seeking to reach Malaysia. She was seriously concerned by reports of abductions and violence experienced in the camps, in particular during the night. Concerns were also raised with the Special Rapporteur about activities within the camps, allegedly involving the leaders and supporters of the Arakan Rohingya Salvation Army, leading to increased risks of sexual and gender-based violence against women and girls, including trafficking for purposes of sexual slavery and of child and forced marriage.

63. As of 30 September 2022, approximately 945,953 Rohingya refugees were registered in Bangladesh by the Government of Bangladesh-UNHCR joint registration exercise, residing in 33 extremely congested camps formally designated by the Government of Bangladesh in the Ukhiya and Teknaf upazilas of the Cox's Bazar district, as well as on the island of Bhasan Char. The Special Rapporteur notes that an estimated 52 per cent of Rohingya refugees in Bangladesh are children under age 18, a fact which has created significant child protection needs and risks.¹⁵ The *2023 Joint Response Plan: Rohingya Humanitarian Crisis*¹⁶ recognizes the specific risks of abuse, exploitation and gender-based violence faced by women, girls and boys. The Special Rapporteur stresses the urgency of recognizing the specific risks of trafficking in persons, especially of children, in the ongoing joint response plan and notes the increasing risk of trafficking for purposes of exploitation in criminal activity and forced criminality, particularly targeting adolescent boys and young men.

64. The Special Rapporteur welcomes the adoption of a strategy on family planning and highlights the critical role of sexual and reproductive health services for victims of trafficking. The Special Rapporteur notes that the educational needs of the children and youth in the refugee camps are significant. The Special Rapporteur is concerned about the very negative impact of the ongoing closure by the authorities of shops (since October 2021) and the Rohingya market inside the Kutupalong camp on the livelihoods, employment opportunities and socioeconomic rights of refugees.¹⁷ The Special Rapporteur is also very concerned about the directive issued by the Office of the Refugee Relief and Repatriation Commissioner communicating a series of restrictive measures affecting refugees' access to education.¹⁸ The Special Rapporteur is deeply concerned that limited access to formal education is pushing children and young people into dangerous situations, increasing their vulnerability to trafficking.

65. The Special Rapporteur noted that women-headed households are particularly vulnerable. She heard reports of girls as young as age 12 years being trafficked to Malaysia for purposes of child marriage, sexual exploitation and domestic servitude. Boys and young

¹⁵ A/HRC/49/76, para. 18.

¹⁶ Office for the Coordination of Humanitarian Affairs, Inter-Sector Coordination Group, *2023 Joint Response Plan: Rohingya Humanitarian Crisis*, available at <https://reporting.unhcr.org/document/4378>.

¹⁷ A/HRC/49/76, para. 25.

¹⁸ Office of the United Nations High Commissioner for Refugees (UNHCR), Bangladesh Operational Update, January 2022, available at <https://data.unhcr.org/en/documents/details/90900>.

men are particularly at risk of trafficking for purposes of forced labour, and the Special Rapporteur heard reports of young men and adolescent boys being subjected to servitude and forced labour in the urban centre of Cox's Bazar. The Special Rapporteur is concerned about the situation of Rohingya children and young people in street situations in Cox's Bazar, who are at increased risk of trafficking for purposes of sexual exploitation, especially during the tourist season.

66. The deep levels of trauma experienced by victims returned to the camps was evident, raising serious concern about the urgent need for increased assistance and protection of victims and their families. The Special Rapporteur spoke with victims who continue to fear risks of re-trafficking, including of children. Several women and girls expressed concern about the closure of women-only and women-friendly spaces and highlighted the urgent need for more targeted support to ensure effective protection, in particular for girls.

67. The Special Rapporteur notes the relocation of approximately 28,000 Rohingya refugees to Bhasan Char, an island where temporary alternative accommodation is being provided for refugees. The Special Rapporteur notes the importance of ensuring the voluntary nature of relocation and of freedom of movement in practice, as well as the need for the inclusion of actions to combat trafficking in persons for all purposes of exploitation in protection mechanisms, recognizing the specific risks faced by women and children.

68. The Special Rapporteur is concerned about the failure to undertake effective investigations into credible reports of trafficking of Rohingya refugees, especially of women and children from the camps, for purposes of child and forced marriage and sexual exploitation, and of men and boys for purposes of forced labour and forced criminality. She highlights the absence of an anti-trafficking tribunal in Cox's Bazar and the limited awareness among law enforcement bodies of the positive obligations to identify victims or persons at risk of trafficking and to provide specialized assistance and protection. The Special Rapporteur is also concerned about reports of reprisals, intimidation and harassment of victims as well as of community groups and human rights defenders seeking to prevent trafficking in persons and to protect victims of trafficking.

IX. Conclusions and recommendations

69. **The Special Rapporteur stresses that effective action seeking to prevent trafficking in persons and to protect victims of trafficking is critical to the achievement of the Sustainable Development Goals (in particular, Goals 1, 5, 8, 10, 13, 16 and 17), the 2030 Agenda for Sustainable Development, the eighth five-year action plan and the strategic priorities of the United Nations Sustainable Development Cooperation Framework 2022–2026. It is also closely linked to graduation from the list of least developed countries, particularly through strengthened rule of law institutions. Highlighting the legal obligations of partnerships arising under international human rights law and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (article 9 (3)), the Special Rapporteur stresses the importance of an enabling environment for civil society, trade unions and lawyers to combat trafficking in persons.**

70. **The Special Rapporteur recommends that the Government of Bangladesh:**

(a) **Ratify the ILO Domestic Workers Convention, 2011 (No. 189); the 1951 Convention relating to the Status of Refugees; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness;**

(b) **Strengthen interministerial coordination to combat all forms of trafficking, including, in particular, between the Ministry of Women and Children Affairs and the Ministry of Social Welfare, prioritizing action against internal trafficking;**

(c) **Ensure effective participation by civil society, trade unions, children and young people in the preparation and implementation of the new national referral mechanism;**

(d) Integrate measures to prevent trafficking and protect victims among Rohingya refugees into the National Action Plan for the Suppression and Prevention of Human Trafficking (2018–2022) and into the proposed national referral mechanism, which will be essential to ensuring its effectiveness and comprehensive scope;

(e) Ensure that rights of persons with disabilities, in particular women and girls, are addressed in the National Action Plan (2018–2023) and in all anti-trafficking actions, including in the proposed national referral mechanism;

(f) Ensure that a human rights-based, survivor-led approach is integrated into all measures to combat trafficking for purposes of sexual exploitation, combating stigma, discrimination and violence against sex workers and promoting gender equality;

(g) Ensure the implementation, in practice, of the principle of non-punishment of victims of trafficking, without discrimination, including in relation to persons engaged in sex work, as well as in the context of forced criminality.

71. Regarding concerns related to risks in labour migration, the Special Rapporteur recommends that the Government of Bangladesh:

(a) Expand safe and regular migration opportunities for women, including through enhancing the skills of migrant women workers, and address the gender dimensions of trafficking for purposes of forced labour;

(b) Strengthen the protection of migrant workers in countries of destination, in particular of women domestic workers, and the capacity for the prevention of trafficking and protection of victims among consular and embassy officials;

(c) Strengthen the regulation of recruitment agencies and intermediaries, ensuring effective investigations and prosecutions of all those involved in trafficking for purposes of forced labour, in order to combat impunity and ensure the application of effective proportionate and dissuasive sanctions;

(d) Expand the provision of predeparture orientation and registration programmes for migrant workers at the union and district levels, addressing the particular risks faced by migrant women workers.

72. Regarding trafficking of children, the Special Rapporteur recommends that the Government of Bangladesh:

(a) Take urgent action to prevent child trafficking for all purposes of exploitation through expanded child protection systems, universal access to birth registration, without discrimination (Sustainable Development Goal target 16.9), including, in particular, the children of sex workers, indigenous children, stateless children and Rohingya refugees;

(b) Strengthen action to prevent trafficking for purposes of child marriage both internally and cross-border, and promote the rights of the girl child;

(c) Strengthen the identification and protection of child victims and children at risk of trafficking, including children in street situations, engaging all personnel engaged in health care, education, social services and child protection;

(d) Address the gender dimension of child labour and the risks of child trafficking through greater attention to more hidden forms of child labour in the informal sectors and, in particular, in domestic households.

73. Regarding the identification of and assistance to trafficked persons, the Special Rapporteur recommends that the Government of Bangladesh:

(a) Ensure that sufficient long-term resources and funding are provided to specialized NGOs providing assistance to victims of trafficking, ensuring their sustainability;

(b) Ensure that a proactive approach to the identification of victims of trafficking is taken, in cooperation with civil society organizations, trade unions and

child protection specialists, without a requirement for cooperation with law enforcement agencies;

(c) Ensure that the identification and protection of victims of trafficking is trauma-informed, victim-centred and human rights-based, respecting the rights and agency of survivors;

(d) Ensure that a survivor-led approach is implemented in the provision of assistance, protection and long-term social inclusion measures and in the design, implementation and evaluation of anti-trafficking measures.

74. Regarding access to effective remedies, including compensation for trafficked persons, the Special Rapporteur recommends that the Government of Bangladesh:

(a) Strengthen and safeguard the independence of the judiciary and ensure the independence of lawyers working on trafficking cases, including their protection from reprisals and intimidation;

(b) Expand the mandates, functions and resources and capacity of labour courts and labour inspectorates to ensure just and fair conditions of work, including, in particular, in export processing zones and in the informal sector;

(c) Establish a State fund for victim support and ensure the provision of specialized protection and services to victims and witnesses of trafficking, with effective witness protection measures and free legal aid at all stages of legal proceedings;

(d) Strengthen efforts to combat gender bias and discrimination against women and girls by the judiciary and law enforcement bodies, particularly in the investigation and prosecution of trafficking for purposes of sexual exploitation;

(e) Ensure that positive action is taken to identify and protect lesbian, gay, bisexual and trans persons and persons of diverse gender identifies who may be victims of trafficking and ensure effective prevention of trafficking and access to justice, combating discrimination, violence and harassment by law enforcement bodies and the justice sector;

(f) Strengthen international cooperation in the investigation of trafficking crimes as well as the capacity for financial investigations and the presentation of digital evidence in relation to technology-facilitated trafficking in persons;

(g) Guarantee effective access to compensation for victims of trafficking, regardless of their participation in criminal proceedings and independent of the prosecution or conviction of traffickers, and establish a State compensation fund.

75. Regarding specific concerns on internal trafficking in persons, the Special Rapporteur recommends that the Government of Bangladesh:

(a) Strengthen measures to combat internal trafficking in persons, including through training and continuing professional development to social workers and health-care professionals, specifically with regard to indicators of trafficking for all forms of exploitation and assistance mechanisms for trafficked persons, especially on trafficking for sexual exploitation and child marriage;

(b) Develop data collection and research on internal trafficking in Bangladesh, in particular for purposes of sexual exploitation and child marriage, and on trafficking of children with disabilities.

76. Regarding specific concerns related to climate change, displacement and disasters, the Special Rapporteur recommends that the Government of Bangladesh:

(a) Incorporate measures to prevent trafficking in persons, especially children, into climate adaptation and mitigation plans and disaster response management plans, ensuring the participation and leadership of women in their design and implementation;

(b) Strengthen measures to prevent trafficking in persons in the context of natural and climate-related, disasters, with targeted measures to support women,

children and persons with disabilities, through continued participation in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime and implementation of the 2023 Adelaide Strategy.

77. In relation to Rohingya refugees, the Special Rapporteur recommends that the Government of Bangladesh:

(a) Prevent trafficking in persons in refugee camps for all purposes of exploitation through expanded access to formal education opportunities, including post-secondary education, and ensure access to livelihoods opportunities and employment;

(b) Expand programmes to combat sexual and gender-based violence, promote gender equality and women's empowerment and prevent trafficking in persons, including through the Joint response plan for the Rohingya humanitarian crisis;

(c) Provide targeted prevention programmes for women and girls, including through rights-based relationships and sexuality education;

(d) Ensure assistance and protection for child victims of trafficking, in compliance with international law on the rights of the child, ensuring access to child-friendly justice procedures and a protective environment, following best interests determinations;

(e) Expand the provision of safe accommodation and long-term psychosocial and medical assistance, as well as measures to support social inclusion, for victims of trafficking, particularly children;

(f) Support survivor-led, gender-sensitive and trauma-informed programmes to prevent trafficking and protect victims and persons at risk of trafficking;

(g) Establish protection-sensitive screening systems for victims of trafficking after rescue interventions and ensure access to national protection and assistance services, including to national legal aid mechanisms through the district legal aid office in Cox's Bazar;

(h) Strengthen protection and security measures within the camps to prevent the abduction and recruitment of children by armed groups, including sexual and gender-based violence and intimidation and harassment of victims of trafficking;

(i) Strengthen mechanisms for the timely reporting and investigation of missing persons, especially children, and effective investigations to combat impunity for trafficking in persons, including victim and witness protection programmes;

(j) Expand the operations of specialized anti-trafficking tribunals, including to Cox's Bazar, as a priority;

(k) Take measures to reduce statelessness and to ensure that all children have the right, from birth, to acquire a nationality, expanding universal access to birth registration;

(l) End restrictions on the movement of Rohingya refugees, recognize Rohingya refugees as refugees and provide pathways to citizenship;

(m) Ensure the implementation of the principle of non-punishment and its application to Rohingya refugees who may be victims of trafficking, ensuring that all victims are assisted and protected and are not subjected to deprivation of liberty.

78. The Special Rapporteur recommends that international community:

(a) Expand opportunities for resettlement, provide humanitarian visas, expand access to and facilitate family reunification and provide safe and regular migration opportunities for Rohingya refugees;

(b) **Urgently increase funding to United Nations entities, international NGOs and the Government of Bangladesh for measures to support rights-based refugee protection and support to host communities;**

(c) **Continue to promote victim-centred and human rights-based responses to trafficking in persons and to search and rescue operations on the Andaman Sea through the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime and through other international forums, ensuring compliance with international human rights law and international refugee law.**
