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**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав,
включая право на развитие**

Посещение Южного Судана

**Доклад Специального докладчика по вопросу о торговле людьми,
особенно женщинами и детьми, Шивон Маллалли* ****

Резюме

Специальный докладчик по вопросу о торговле людьми, особенно женщинами и детьми, Шивон Маллалли освещает проблему распространенности торговли людьми в Южном Судане, в частности, но не исключительно в контексте конфликта, и указывает на необходимость срочной активизации скоординированных мер по предотвращению торговли людьми в целях эксплуатации в любой форме и по предоставлению пострадавшим помощи и защиты с учетом гендерных аспектов и при уважении полученной ими травмы и их прав человека.

Специальный докладчик особенно обеспокоена распространенностью контрабанды детей и неизменно большим числом похищений детей с целью принуждения к вступлению в брак и эксплуатации детского труда, а также принудительной вербовки в вооруженные силы и группы и использования такими силами и группами и для эксплуатации в преступных целях. Системное гендерное неравенство и широко распространенное сексуальное и гендерное насилие, включая связанное с конфликтом сексуальное насилие в отношении женщин и девочек, способствуют безнаказанности торговли людьми в целях сексуальной эксплуатации, в том числе в таких формах, как сексуальное рабство, детские браки и бытовое рабство.

Специальный докладчик подчеркивает крайне ограниченные возможности получения помощи и защиты, доступные лицам, ставшим жертвами торговли людьми, и указывает на необходимость принятия срочных мер по обеспечению безопасных убежищ для таких лиц и гарантированию им доступа к медицинской помощи, в том числе к услугам по охране репродуктивного и сексуального здоровья, а также к психосоциальной помощи, образованию, профессиональному обучению и трудоустройству и юридической помощи и эффективным средствам правовой защиты. Она подчеркивает также особые риски, с которыми сталкиваются внутренне

* Резюме доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен.

** Настоящий доклад был представлен после установленного срока в связи с обстоятельствами, не зависящими от представляющей доклад стороны.



перемещенные лица, беженцы, в частности несопровождаемые и разлученные с близкими дети, и трудящиеся-мигранты. На этом фоне позитивным шагом стало принятие Всеобъемлющего плана действий по прекращению и предупреждению всех серьезных нарушений в отношении детей. Специальный докладчик указывает на необходимость принятия дальнейших мер по предотвращению связанной с конфликтом контрабанды детей, в частности их похищений с целью эксплуатации, вербовки и использования и с целью сексуального насилия над ними.

Приложение

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

I. Introduction

1. The Special Rapporteur on trafficking in persons, especially women and children, is grateful to the Government of South Sudan for its willingness to facilitate her visit and for the constructive dialogue and engagement on human rights and trafficking in persons.

2. The continuing risks of conflict-related trafficking were highlighted in meetings with the Special Rapporteur during her visit, as were the risks and prevalence of trafficking occurring in the context of extreme poverty, continuing conflict and violence, systemic gender inequality and climate change. The Special Rapporteur held several high-level meetings, including with government ministers, the Governor of Unity State and representatives of the National Task Force to Counter Trafficking in Persons and Smuggling of Migrants, law enforcement bodies, the Child Protection Unit of the South Sudan People's Defence Forces, the National Aliens Committee and National Coordination Mechanism on Migration, the Commission of Refugee Affairs, the Criminal Investigation Division of the Directorate of Public Prosecution and the Disarmament, Demobilization and Reintegration Commission. She visited Juba prison, including the women's prison and the juvenile detention facility. She met with the United Nations country team and representatives of United Nations agencies, the United Nations Mission in South Sudan (UNMISS), international and national non-governmental organizations and development partners.

3. In addition to Juba, the Special Rapporteur visited Bentiu, in Unity State, where she had the opportunity to observe first hand the impact of severe flooding, climate change and environmental degradation. In Bentiu, she visited internally displaced persons and protection of civilian camps and met with community leaders, women's groups, members of law enforcement bodies and the camp administration. She also visited Aru Junction and Nimule, where she observed the work of the border police and listened to their experiences in identifying victims of trafficking and persons at risk of trafficking, in the context of migration. She visited the Special Protection Unit in Nimule, at the border with Uganda, and observed the facilities available for survivors of trafficking in persons. In Nimule, she met with community leaders, women's organizations, women leaders and survivors of sexual and gender-based violence.

4. During her visit to South Sudan, the Special Rapporteur also met with a wide range of civil society organizations and lawyers, feminist organizations, youth leaders, migrant workers, leaders of migrants' rights organizations, sex workers, survivors of trafficking for all forms of exploitation, including former child abductees, and survivors of trafficking in children for purposes of recruitment and use by armed groups and armed forces. The Special Rapporteur is particularly grateful to the survivors of trafficking who met with her during her visit; their testimonies of serious human rights violations inform the analysis and recommendations presented in her report.

Background and context

5. The Special Rapporteur highlights the background context of poverty, insecurity, violence and continuing challenges to peacebuilding, which create a climate within which trafficking in persons, especially women and children, persists with impunity. Continued progress towards sustainable and equitable peace and democracy will be essential to combating trafficking in persons. The continuing challenges related to peacebuilding and to conflict, insecurity and weaknesses in the rule of law affect the capacity to prevent trafficking in persons. The South Sudanese peace process is now at a critical juncture, with the extension of the transitional period to February 2025 and the incorporation of the road map to a peaceful

and democratic end to the transitional period of the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan into the Transitional Constitution.¹

6. The Special Rapporteur highlights commitments in the United Nations Sustainable Development Cooperation Framework 2023–2025 that are of particular importance to preventing trafficking in persons. These include ending barriers and discriminatory norms and practices that limit the participation of young people in the labour market and committing to more transparent, accountable and inclusive governance that protects and promotes human rights, enables the consolidation of peace and ensures access to justice.

7. The Special Rapporteur notes that displacement, due to continuing conflict and the damaging impact of climate change, contributes further to trafficking in persons. South Sudan is ranked among the 10 countries in the world that are the most vulnerable to the impact of climate change.² Despite facing significant challenges related to peacebuilding and to conflict, insecurity and climate change, South Sudan currently hosts 377,000 refugees and has ratified the Convention relating to the Status of Refugees. In addition, South Sudan is host to over 824,000 migrant workers and is a country of origin, transit and destination for migration. There are also 2.3 million South Sudanese refugees in neighbouring countries, making it the largest refugee crisis in Africa. This migration context, combined with limited access to livelihoods and safe, regular migration opportunities, both inward and outward, contributes to increased risks of trafficking in persons.

8. The Special Rapporteur highlights the serious humanitarian situation and high levels of food insecurity. It is estimated that 9.4 million people (76 per cent of the South Sudanese population) will need humanitarian assistance in 2023, compared with 8.9 million in 2022. An estimated 1.34 million children aged under 5 are expected to suffer from acute malnutrition and require life-saving treatment for survival. The projected 9.4 million people in need for 2023 comprise 1.9 million internally displaced persons, 1.4 million returnees, 5.8 million host community and non-displaced persons and 337,000 refugees. Nearly 15 per cent of the people in need are persons with disabilities.³

II. Main findings

A. Conflict-related trafficking in persons, especially women and children

9. Trafficking in persons for purposes of sexual exploitation, including sexual violence, sexual slavery and child and forced marriage, is a form of conflict-related sexual violence,⁴ and has been prevalent in South Sudan. The Special Rapporteur highlights very serious concerns in relation to the continuing prevalence of such trafficking and the increase in conflict-related sexual violence. UNMISS documented a 96 per cent increase in conflict-related sexual violence in 2022,⁵ which contributes to increased risks of trafficking in persons, in particular for purposes of sexual exploitation, sexual violence and sexual slavery.

10. The trauma and harm endured by victims and survivors and the impact on their lives, health (including mental health and reproductive and sexual health), private and family life, and employment and education opportunities must be urgently addressed. The risk of re-trafficking and remaining in a cycle of exploitation and violence is also evident, given the continuing impunity for conflict-related trafficking in persons. The deep harm and trauma experienced by individual victims, primarily women and children, must not be forgotten.

11. Conflict-related sexual violence against women and girls has been recorded and documented in the work of the Commission on Human Rights in South Sudan, as well as by

¹ S/2022/918, para. 3.

² Office for the Coordination of Humanitarian Affairs, *Humanitarian Needs Overview: South Sudan* (November 2022).

³ Ibid.

⁴ S/2022/272, para. 4.

⁵ UNMISS, “Annual brief on violence affecting civilians (January to December 2022)” (Office of the United Nations High Commissioner for Human Rights, 2023).

United Nations entities and civil society. The conduct described includes conduct that falls within the definition of trafficking in persons and may amount to sexual slavery or enslavement. The Special Rapporteur highlights the concerns raised by the Commission that the magnitude of sexual violence is not fully understood or documented due to the underreporting of cases because of fear of reprisal, stigma and threats to safety and security, including to whole families and communities. Documented experiences include conduct that constitutes trafficking in persons for purposes of sexual exploitation, sexual slavery, domestic servitude and forced labour. In reports on attacks in southern Unity State occurring in February and April 2022, it was noted that rape and sexual violence against women and girls were widespread and systematic, as was exploitation for purposes of forced labour. It was reported that many of the women forced to act as porters for looted goods from Leer were then held captive in Mirmir and repeatedly raped by multiple men. Abductions of and sexual violence against women and girls in Yambio County, Western Equatoria State, were also reported. Repeated instances of conflict-related trafficking for purposes of sexual slavery and forced labour have been documented, with women and girls being abducted and detained by State and non-state armed groups, held in sexual slavery, as “wives”, and forced to cook, wash clothes, gather firewood and undertake gendered support roles to armed groups. Forced pregnancies were also reported, with instances of children born of rape and sexual slavery.⁶

12. The Special Rapporteur heard reports of continuing abductions of women and girls, involving armed groups, for purposes of sexual slavery, forced labour and forced pregnancy that constitute trafficking in persons, including but not limited to contexts associated with conflict. The Special Rapporteur also heard reports of abductions and sexual violence against men and boys, including being held in detention settings for extended periods, that may amount to trafficking for purposes of sexual exploitation and sexual slavery, including but not limited to the context of conflict. Conflict-related sexual violence against men and boys, including trafficking for purposes of sexual exploitation, remains underreported.⁷ The Special Rapporteur is concerned that limited gender-sensitive and trauma-informed support and services are available to facilitate disclosure and reporting and ensure the provision of assistance, protection and reparations for such harms.

13. The Special Rapporteur is concerned that the prevalence of conflict-related trafficking in persons also threatens to undermine peace and reconciliation processes and progress towards sustainable development. Reports of the Secretary-General on the situation in South Sudan reveal the continuing prevalence of indicators of conflict-related sexual violence as a form of trafficking for the purposes of sexual exploitation.⁸ Abductions are a particularly prevalent feature of conflict-related trafficking in persons.

14. The Special Rapporteur notes the importance of continued attention to conflict-related sexual violence and welcomes the Action Plan for the Armed Forces on Addressing Conflict-related Sexual Violence in South Sudan. Funding through the multi-partner trust fund of the United Nations Action against Sexual Violence in Conflict network has contributed to the provision of essential support services through integrated “one-stop” centres offering legal, psychosocial and medical support to survivors of conflict-related sexual violence, including victims and survivors of trafficking in persons for purposes of sexual exploitation. However, serious concerns remain in relation to significant gaps in the protection of witnesses and victims and survivors of conflict-related trafficking in persons, including in the provision of assistance and protection to victims, which, in turn, contribute to difficulties in ensuring effective investigations and combating impunity.

B. Trafficking in children

15. The Special Rapporteur highlights the prevalence of trafficking in children in South Sudan, including but not limited to the context of conflict, and the urgency of coordinated

⁶ See the conference room paper of the Commission on Human Rights in South Sudan on conflict-related sexual violence against women and girls in South Sudan, available on the web page of the Commission (<https://www.ohchr.org/en/hr-bodies/hrc/co-h-south-sudan/index>).

⁷ *Ibid.*, para. 17.

⁸ [S/2022/468](#), [S/2022/689](#), [S/2022/918](#) and [S/2023/135](#).

action to strengthen prevention and provide protection for child victims. The Special Rapporteur heard accounts of children being abducted and detained for extended periods of time, often several months, for purposes of exploitation, including forced labour, domestic servitude, sexual slavery and recruitment and use. The Special Rapporteur met with parents and families whose children had been abducted and remained missing. The forms of conflict-related trafficking in children in South Sudan are gendered, with girls targeted primarily for purposes of sexual exploitation and domestic servitude. However, the Special Rapporteur notes the underreporting and limited disclosure of sexual exploitation of men and boys.

16. The Special Rapporteur highlights that recruitment and use of children by armed forces and armed groups is a form of trafficking in children and must be recognized as such if accountability for such trafficking is to be ensured and assistance, protection and reparations are to be provided to survivors. The Special Rapporteur notes that the Child Act 2008 includes specific provisions relating to children and armed conflict, which are applicable to conflict-related trafficking, and to the obligations of the State to ensure protection, rehabilitation, care, recovery and reintegration into normal social life for children formerly associated with armed conflict, including children from regular and other armed groups and children who are victims of armed conflict, having due regard to the special needs of girls and their dependants (art. 31 (3)). The Special Rapporteur was informed of measures being taken by the Child Protection Unit of the South Sudan People's Defence Forces concerning the occupation of schools and the provision of training on child protection, with the support of UNMISS, for military officers.

17. The adoption of the Comprehensive Action Plan to End and Prevent All Grave Violations against Children was a positive measure. In his most recent report on children and armed conflict in South Sudan, the Secretary-General noted that the United Nations country task force on monitoring and reporting in South Sudan had verified 457 grave violations against 409 children (287 boys, 114 girls and 8 of unknown sex) during the period from 1 July 2020 to 30 June 2022.⁹ The Special Rapporteur highlights in particular the continuing abductions of children for purposes of exploitation, including recruitment and use, forced labour and domestic servitude and sexual exploitation. Verified cases of abduction increased significantly in 2022 compared with 2021. Both government security forces and non-State armed groups were implicated in the reported violations.

18. The Special Rapporteur is particularly concerned about the lack of accountability for grave violations against children. Assistance and protection services for child victims remain limited. The Special Rapporteur spoke with former child abductees, some of whom were still seeking reunification with their families, and family members of child abductees. The limited services and protection available were highlighted in those meetings, as was the continuing impact on survivors, their families and affected communities of the trauma and the serious human rights violations endured.

19. Recruitment and use of children by armed forces and armed groups nearly always constitutes trafficking in children. The Special Rapporteur notes the exploitation of children for use as bodyguards, porters, cooks and messengers, as well in the performance of security duties and participation in military parades.¹⁰

20. The Special Rapporteur notes the continued prevalence of conflict-related trafficking of children, including abductions for purposes of sexual violence, sexual exploitation and recruitment and use, with the abductions and related human rights violations lasting from hours to several months. Other purposes of abduction may include child marriage, domestic servitude or child labour. Children have been abducted from sites for internally displaced persons, from their homes and along roads.¹¹ The impact of the continued lack of access to education and the closure of schools is clearly evident in the heightened risks of trafficking. The majority of abductions are attributed to non-State actors, with the remaining abductions attributed to South Sudan People's Defence Forces.

⁹ S/2023/99, para. 24.

¹⁰ *Ibid.*, para. 33.

¹¹ *Ibid.*, para. 70.

21. Important support for the recovery and rehabilitation of children, as well as the prevention of trafficking, is undertaken through funding channelled from the South Sudan reconciliation, stabilization and resilience trust fund, which supports ongoing work with communities and seeks to promote reconciliation and prevent the abduction of women and children. Such measures are critical to ensuring access to justice and reparations for child victims, as well as guarantees of non-repetition.

C. Internal trafficking

22. The Special Rapporteur notes that the forms of trafficking experienced and prevalent in South Sudan are deeply gendered. Women and girls are primarily targeted for purposes of sexual exploitation, sexual slavery, child and forced marriage and domestic servitude. Men and boys are primarily trafficked for purposes of forced labour, forced criminality and recruitment and use by armed forces and armed groups. The Special Rapporteur notes that men and boys may also be victims of trafficking for purposes of sexual exploitation, but limited information or awareness of such risks hinder reporting, protection and accountability.

23. The Special Rapporteur notes the rapid escalation of violence in the States of Upper Nile, Jonglei, Central Equatoria, Eastern Equatoria and Western Equatoria and in the Greater Pibor Administrative Area in 2022, which displaced thousands of civilians, with reports of large-scale abductions of women and children. This context of conflict, violence and forced displacement contributes to the high risks and incidence of trafficking in women and children in particular.

24. The Special Rapporteur also notes continuing concerns relating to cattle-related intercommunal violence and land disputes, which lead to widespread displacement and heightened risks of trafficking in persons. In Jonglei State, what are reported as cyclical cattle-related incidents in the Nuer, Dinka and Murle territories escalated, extending into the Greater Pibor Administrative Area, resulting in violent clashes and the displacement of over 40,000 civilians.¹² Such violence and displacement have a particular impact on women and children, who are often the targets of reprisals and revenge attacks.

25. Continuing impunity for trafficking in persons contributes to serious failures of prevention and protection, including in the context of recurring cycles of conflict between pastoralists and farmers, climate-induced migration of livestock, seasonal cattle migration and cattle raids. The Special Rapporteur is concerned that, despite persistent evidence of trafficking occurring in such contexts, prevention measures are not taken and protection is not ensured. Abductions of women and children are particularly prevalent in such contexts, contributing to cycles of violence, with victims often marginalized and invisible, with limited assistance or protection provided.

26. In its concluding observations on the initial report of South Sudan, the Committee on the Elimination of All Forms of Discrimination against Women noted that, despite the increased risk of trafficking of women in South Sudan for purposes including forced marriage, domestic servitude and sexual and labour exploitation, trafficking remained underreported due to limited awareness of the crime, including among actors in the justice sector. Such lack of awareness of the serious human rights violations and serious crime of trafficking in persons allowed trafficking in women and girls, in particular for purposes of child marriage (though abductions for marriage and payments of “bride price”), as well as domestic servitude, to persist with impunity. The Committee also noted the low confidence in the justice sector, the very limited availability of assistance and protection services, the fear of stigmatization and, for non-South Sudanese victims of trafficking, the fear of deportation and serious risks of refolement, including re-trafficking.¹³

¹² S/2023/135, para. 13.

¹³ CEDAW/C/SSD/CO/1, para. 30.

27. The Special Rapporteur highlights the increased risks of trafficking in women and children linked to the proliferation and large influx of unregulated small arms and light weapons, and the gendered impact of related insecurity and continued impunity.

1. Trafficking in children

28. The Special Rapporteur is particularly concerned at the high incidence of child marriage and of trafficking of children for purposes of child marriage, domestic servitude and sexual exploitation.¹⁴ The Special Rapporteur welcomes the adoption of the strategic national action plan to end child marriage in South Sudan. Continuing challenges to the prevention of trafficking in children include the customary practices of dowry and “bride price” and systemic gender inequality, leading to low levels of participation in education for girls, in particular once they reach puberty. The Special Rapporteur highlights continuing difficulties in achieving universal birth registration, in particular in the context of displacement and conflict, and the particular risks for children born of rape and child marriage. The Special Rapporteur stresses the importance of birth registration as an important measure to prevent trafficking in children and ensure the protection of children.

29. The Special Rapporteur heard repeated accounts of trafficking in children for purposes of domestic servitude and other forms of child labour, including in construction, restaurants and markets, at food stands, for brickmaking and cattle herding, and also for the mining sector, including gold mining.¹⁵ The Special Rapporteur is seriously concerned at reports of child labour in the mining sector, trafficking in children for purposes of labour exploitation and limited access to mines for the purpose of inspection, monitoring and oversight.

30. The Special Rapporteur met with women sex workers and was deeply concerned by reports of children of sex workers being abducted, going missing and being trafficked for purposes of sexual exploitation, domestic servitude and child marriage. Reports were also given of girls who had been abducted from rural areas and camps for internally displaced persons and trafficked to Juba for purposes of sexual exploitation and domestic servitude, often initially deceived by offers of education opportunities and scholarships.

31. The Special Rapporteur highlights the context of extreme poverty, widespread closure of schools and limited access to education due to displacement, including climate change- and conflict-related displacement and severe flooding, which increases the risks of exploitation and trafficking in children.

32. The Special Rapporteur welcomes the comprehensive Child Act 2008, which includes provisions on the rights of children with disabilities, refugee and displaced children and children of minorities. However, continuing delays in operationalizing and implementing the national action plan for children is hindering the strengthening of child protection systems, which are essential to preventing trafficking in children and protecting child victims.

33. The Special Rapporteur highlights the serious concern expressed by the Committee on the Rights of the Child about the disproportionate and extremely low percentage of the national budget that is allocated to sectors and institutions relevant to children, in particular when compared with the budget allocated to national security and defence, and about reports of corruption that is diverting oil revenues from spending on public programmes that affect children, including education.¹⁶

34. The Special Rapporteur highlights the ongoing work of the Ministry of Gender, Child and Social Welfare in relation to gender equality, women’s empowerment, child protection and the rights of persons with disabilities. However, the lack of financial and human resources and limited coordination with key line ministries at both the national and the State levels are hindering the effectiveness of the Ministry’s work. The Special Rapporteur is concerned at the limited attention given to the urgency of preventing trafficking in children, including children in street situations and children with disabilities, who may be at heightened risk.

¹⁴ See <https://data.unicef.org/resources/child-marriage-country-profiles/>.

¹⁵ See also [CRC/C/SSD/CO/1](#), para. 60.

¹⁶ *Ibid.*, para. 12.

35. The Special Rapporteur highlights specific concerns and requests from the International Labour Organization (ILO) Committee of Experts, in particular in relation to trafficking in children, child labour (including the worst forms of child labour) and the recruitment and use of children. These relate to observations made by, among others, the Employers Association of South Sudan and the South Sudan Workers Trade Union Federation in relation to children in street situations and on the need for heightened protection.¹⁷

36. The Special Rapporteur highlights the limited implementation to date of the national policy on the protection and care of children without appropriate parental care. The Special Rapporteur is seriously concerned that internally displaced and returning refugee children are at risk of trafficking for all purposes of exploitation, including in criminal activity. Risks of trafficking in children are increased in the context of the approximately 8,000 children registered as unaccompanied, separated or missing nationally and requiring family tracing and reunification. The Special Rapporteur expresses serious concerns in relation to the limited capacity and functioning of the national child protection information management system and the urgent need for resourcing.

37. The Special Rapporteur welcomes the participation by South Sudan in the Ministerial Commitment on comprehensive sexuality education and sexual and reproductive health services for adolescents and young people in Eastern and Southern Africa but highlights the serious gaps in implementation and roll-out across the country, in particular in the context of displacement, conflict and the closure of schools.

2. Internal displacement, refugees, forced migration and trafficking in persons

38. The Special Rapporteur highlights the particular risks faced by South Sudanese refugees who have fled to neighbouring countries. Most have fled to Uganda, followed by the Sudan, Ethiopia, Kenya, the Democratic Republic of the Congo and the Central African Republic. The gendered composition of South Sudanese refugee communities exacerbates risks of exploitation, given the prevalence of gender inequality and the more limited access to education, training and employment for women and girls. The high numbers of children among South Sudanese refugees is of particular concern, given the weaknesses of child protection systems in the region and the risks of exploitation, including trafficking, in particular for unaccompanied and separated asylum-seeking and migrant South Sudanese children.

39. The Special Rapporteur commends and highlights the positive measures taken by South Sudan to welcome and host significant numbers of refugees and protect the rights of refugees. Significant challenges arise in ensuring the prevention of trafficking in persons among refugees in South Sudan and in providing protection and effective access to remedies. Given the protracted nature of refugee situations and the hosting of refugees, the Special Rapporteur is concerned that further action is needed to ensure that the particular risks faced by and the situation of refugees are integrated into policy and planning on actions to combat trafficking in persons.

40. The Special Rapporteur highlights the Refugee Act 2012, in which the right to work for refugees is recognized. However, there are limited employment opportunities in South Sudan. Overcrowding in some of the refugee camps remains a serious concern, with most of the areas currently hosting refugees also host to large numbers of internally displaced persons. Given limited access to education and weak child protection systems, unaccompanied and separated children are particularly vulnerable to trafficking for sexual exploitation or labour exploitation, in particular in the informal sector.

41. The Special Rapporteur highlights ongoing work to reduce statelessness. However, procedures to obtain a nationality certificate are often time-consuming and involve a costly

¹⁷ See

https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4325430,2697100:NO.

registration process. The legal and social vacuum linked to statelessness may hinder access to basic services, legal protection and regular employment, and increase risks of exploitation.

42. South Sudan faces particular challenges given the high numbers of persons internally displaced for protracted periods of time as a result of conflict, the legacy of conflict and the severe impact of flooding and climate change. Ongoing situations of insecurity create a context within which trafficking risks for internally displaced persons, especially women and children, are high. The Special Rapporteur is deeply concerned at the gaps in human rights protection for internally displaced persons, while recognizing the significant work undertaken and important measures introduced, including in the transition from protection of civilian camps to internally displaced persons camps, with consequent changes in responsibilities for the provision of protection and humanitarian assistance. The Special Rapporteur notes the continuing efforts to ensure the application of the Guiding Principles on Internal Displacement to all phases of displacement.

43. The Special Rapporteur visited Bentiu, the former protection of civilian camp, which is now an internally displaced persons camp currently hosting over 100,000 displaced persons in Unity State. National and international non-governmental organizations that provide support in the camp note that sexual and gender-based violence occur within the camp and persist with impunity. Reports of abductions, including for purposes of sexual slavery and child marriage, were heard by the Special Rapporteur. Women reported being required to walk long distances to collect firewood, due to recent floods, which puts them at serious risk of abduction and sexual violence. Although progress has been made in the recruitment of women police officers, the presence of women officers, in particular at night time, was limited. Many women reported the limited attention given to sexual, gender-based and domestic violence by police officers. The Special Rapporteur witnessed the prevalence of firearms, in particular among young men, including within the internally displaced persons camp.

44. Among police offices and members of the armed forces, there was limited evidence of knowledge or awareness of indicators and risks of trafficking, or of the positive obligation to identify victims or persons at risk of trafficking and to ensure protection. The Special Rapporteur noted that important work was ongoing to strengthen customary justice processes, in the absence of the formal justice sector, and to ensure the effective participation of women in dispute-resolution procedures. The mobile court, while a welcome innovation to expand access to justice, had not been functioning in Bentiu for more than a year, due to the impact of flooding. The Special Rapporteur heard repeatedly of the stigma, discriminatory attitudes and shame that hindered the reporting of sexual, gender-based and domestic violence, as well as the limited services available, in particular within the camps. The Special Rapporteur notes the importance of the provision of reproductive and sexual health services during which indicators of sexual and gender-based violence could be identified and which could be expanded to include identification of trafficked persons and persons at risk of trafficking.

D. Sexual and gender-based violence and trafficking for purposes of sexual exploitation

45. The Special Rapporteur highlights the prevalence of sexual and gender-based violence, which creates conditions within which trafficking occurs across South Sudan. The commodification of women and girls and systemic gender inequality contribute to trafficking for all purposes of exploitation, in particular sexual exploitation, and limit access to justice for survivors. Prevention measures are weak, with little awareness of the risks of trafficking. The closure of schools in flood-affected areas and limited access to education, in particular for girls, increases the risks of trafficking, in particular for purposes of child marriage and sexual exploitation. The Special Rapporteur notes that continued measures to promote women and girls' empowerment and gender equality and to combat discrimination against women and girls are critical to the prevention of trafficking in persons.

46. The Special Rapporteur notes that, in selected conflict-affected locations, it is reported that 65 per cent of women and girls have experienced physical and or sexual violence, while

about 22 per cent of women have also experienced intimate partner violence. She raises particular concern with regard to persons with disabilities, in particular women and girls with disabilities, who have limited access to sexual and reproductive health and family planning services, gender-based violence prevention and protection services, education and social, political and economic life. These factors increase risks of trafficking. The Special Rapporteur is concerned at the limited attention paid to the risks of trafficking in programmes to combat sexual and gender-based violence and to expanding comprehensive sexuality education.¹⁸

47. The Special Rapporteur met with several young women who had been trafficked to South Sudan as children from the neighbouring countries of the Democratic Republic of the Congo and Uganda for purposes of sexual exploitation. They recounted horrific experiences of rape, gang rape and being held captive in sexual slavery. The Special Rapporteur is concerned at reports of discriminatory attitudes to and violence against sex workers by police, which hinders the reporting of trafficking or risks of trafficking and leads to failures of identification and protection of victims of trafficking.

48. The Special Rapporteur met with communities of sex workers who highlighted the trend of girls being trafficked to Juba for purposes of sexual exploitation. Discriminatory attitudes towards sex workers limit access to justice and to protection when complaints of sexual violence or of risks of trafficking are brought to the police. Many sex workers highlighted the limited presence of women police officers and the limited number of safe houses and shelters to provide assistance and protection.

49. The prevalence of HIV/AIDS is a serious concern for many sex workers and also has a serious impact on victims of trafficking for purposes of sexual exploitation. There is very limited access to health care and to reproductive and sexual health services for victims and survivors of trafficking for purposes of sexual exploitation. The Special Rapporteur notes ongoing work to prevent HIV/AIDS and highlights the particular risks faced by children orphaned as a consequence of AIDS, who are estimated to number 110,000. Men who have sex with men also face stigma, discrimination and violence and may be at heightened risk of trafficking owing to difficulties in accessing assistance and protection, and resulting marginalization within society.

50. The Special Rapporteur notes the attention given to sexual and gender-based violence in the national gender policy, led by the Minister of Gender, Child and Social Welfare. The Special Rapporteur welcomes the establishment of special protection units and highlights their critical role in providing a dedicated space for reporting sexual and gender-based violence and trafficking in persons, including for purposes of sexual exploitation. However, significant challenges remain, including, in particular, the absence of safe accommodation for victims of trafficking, in particular outside of Juba, and dedicated resources and facilities to transfer and assist victims once identified. The Special Rapporteur is concerned at the limited access to special protection units in rural areas and in areas affected by severe flooding and displacement.

51. The Special Rapporteur is seriously concerned at the gaps in provision of reproductive and sexual health services and specialized treatment for survivors of trafficking.

E. Trafficking in persons for purposes of forced labour

52. Strengthening capacity to prevent trafficking for purposes of forced labour and domestic servitude is critical, including through ensuring just and fair conditions of work and increased opportunities for decent work, as well as monitoring and inspection to prevent trafficking for purposes of child and forced labour.

53. The Special Rapporteur is concerned at the lack of enforcement and weak implementation of labour protections, in particular in the hospitality, catering, mining, construction and informal sectors, where the risks of exploitation are high. The Special Rapporteur is particularly concerned at reports of trafficking, including in children, for

¹⁸ DP/FPA/CPD/SSD/4, para. 5.

purposes of forced labour in artisanal gold mining and reports of abductions of men and boys for purposes of forced labour on cannabis farms on the borders of the Central African Republic and the Sudan and for transporting cannabis.¹⁹

54. Given the high concentration of workers in the informal sector and the limited capacity for oversight, the risks of trafficking for purposes of forced labour in both the formal and the informal sectors are high. Such risks are increased for refugees, internally displaced persons and migrant workers in South Sudan, as well as South Sudanese nationals migrating abroad for employment.

55. South Sudan is a country of origin, transit and destination for labour migration. Further support is needed to raise awareness of the risks of trafficking. International cooperation, bilateral labour agreements and the expansion of safe and regular migration for employment opportunities are critical, as is the need to strengthen the capacity of diplomatic and consular services to raise awareness of the risks of trafficking and to provide assistance to South Sudanese victims in destination and transit countries.

56. The Special Rapporteur is concerned at the limited attention given to the gender dimension of trafficking in the context of labour migration, and the particular risk of trafficking for purposes of domestic servitude to the countries of the Gulf region faced by women from South Sudan.

57. The Special Rapporteur highlights the limited capacity for the effective regulation and protection of the rights of migrant workers in South Sudan and the promotion of regular and safe labour migration of South Sudanese nationals. The majority of migrant workers in South Sudan do not have a valid work permit and work in the informal economy, with limited protections and oversight. Figures from 2017 cited in the National Comprehensive Migration Policy put the number of international migrants in South Sudan at 845,239.²⁰ However, the number may be higher as migration data are not comprehensive or up to date.

58. South Sudan is a country of transit, with migrants passing through as part of the southern route to Ethiopia, as well the western route to Libya. At present, the lack of coordination on migration policy and the diverse range of institutions engaged in migration procedures and management lead to confusion and limited capacity to ensure fair, human rights-based migration policy.

59. The Special Rapporteur highlights the positive measures being taken to expand free movement and safe, regular migration at the regional level, including through protocols of the East African Community (EAC), the Intergovernmental Authority on Development (IGAD) and the Common Market for Eastern and Southern Africa (COMESA).²¹ The Special Rapporteur highlights the importance of ensuring that free movement is accompanied by access to social protection measures and includes protection of the rights of the families and dependants of migrant workers. These aspects are essential to preventing exploitation.

60. The Special Rapporteur highlights the adoption of the Labour Act 2017 and the establishment of the Labour Inspectorate, as well as the adoption of legislative measures for the establishment and licensing of private employment agencies and for the registration with the Office of the Labour Commissioner of South Sudanese willing to be employed abroad.²² The registration of migrant workers and the effective regulation of recruitment agencies are essential for preventing trafficking for purposes of forced labour, protecting all workers and ensuring ethical recruitment.

¹⁹ International Organization for Migration, *Trafficking in Persons in South Sudan: Prevalence, Challenges and Responses – An Action Research* (Juba, 2020), p. 24.

²⁰ See

<https://southsudan.iom.int/sites/g/files/tmzbd11046/files/documents/SOUTH%20SUDAN%20MIGRATION%20POLICY.PDF>.

²¹ The COMESA Protocol on the Free Movement of Persons, Labour, Services, the Right of Establishment and Residence; the COMESA Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements; the Protocol on the Establishment of the East African Community Common Market; the EAC counter-trafficking in persons bill; and the Protocol on Free Movement of Persons in the IGAD Region.

²² Labour Act 2017, art. 41.

F. Prevention of trafficking in the context of United Nations peacekeeping

61. The Special Rapporteur highlights the increased risks of trafficking in persons for purposes of sexual exploitation where there is a high presence of United Nations peacekeeping forces and of humanitarian actors. As such, the Special Rapporteur highlights and welcomes the presence of senior victims' rights officers in South Sudan and the high-level commitment within UNMISS to effectively implementing an action plan to prevent and respond to sexual exploitation and abuse. The Special Rapporteur also highlights and welcomes the establishment of community-based complaint networks to increase community awareness of sexual exploitation and abuse and procedures on how to report allegations and to reduce stigma.

G. Climate change, climate change-related displacement and insecurity

62. The Special Rapporteur witnessed first hand the impact of climate change, climate change-related disasters, severe flooding and displacement, which leads to loss of livelihoods and shelter, the closure of schools and increased risks of trafficking for purposes of child marriage, domestic servitude and sexual exploitation.

63. Between July to October 2022, more than 1 million people were affected by floods affecting 36 counties and the southern part of the Abyei Administrative Area, with Northern Bahr el-Ghazal, Warrap, Unity and Western Equatoria States being the worst affected.²³ This context of displacement increases the risks of insecurity, extreme poverty and loss of livelihoods and limits capacity to prevent trafficking in persons, in particular trafficking in children. The necessity to travel further to access water, sanitation and hygiene facilities may also increase the risks of violence, including sexual and gender-based violence, given the wider context of insecurity and the proliferation of small arms and weapons.

64. The Special Rapporteur commends the adoption of the first South Sudan national adaptation plan and notes that it is recognized in the plan that conflict may increase due to the impact of climate change. It is also recognized that traditional conflict management processes may play an important part in reducing conflict. The Special Rapporteur welcomes the attention given to the gender dimensions of climate change and adaptation planning. As is noted in the national adaptation plan, women and girls are more vulnerable to climate shocks in South Sudan: because the impacts of climate change often fall disproportionately on the shoulders of women and girls, they can exacerbate existing inequalities.²⁴

65. The Special Rapporteur notes the urgency of ensuring the enjoyment of the rights of persons with disabilities in all climate change responses and the participation of people with disabilities, women and young people in the planning, organization and management of climate change policies and disaster response management. She highlights the risks resulting from climate change-related displacement and disasters and unplanned rural-to-urban migration against a background of weak child protection and social protection systems. Specific risks include the exploitation of children, in particular children in street situations, through begging, child labour, child marriage and sexual exploitation.

H. Rights of persons with disabilities

66. The Special Rapporteur notes the adoption of the national disability and inclusion policy and the inclusive education policy. However, increased positive action is required to promote the rights of people with disabilities, ensuring their leadership and participation in the design and implementation of programmes and measures to prevent trafficking in persons among people with disabilities, and to ensure the rights of persons with disabilities who have been trafficked. The Special Rapporteur is concerned that services, information, prevention

²³ Office for the Coordination of Humanitarian Affairs, *Humanitarian Needs Overview: South Sudan* (November 2022), p. 6.

²⁴ South Sudan, Ministry of Environment and Forestry, *First National Adaptation Plan for Climate Change: Republic of South Sudan* (Juba, 2021).

and protection measures are currently not accessible and do not ensure the participation of persons with disabilities in their design and implementation. She highlights particular concerns in relation to trafficking in persons with disabilities, including children, for purposes of exploitation through begging.

III. Legal, policy and institutional frameworks

A. International legal framework

67. The Special Rapporteur welcomes the ratification by South Sudan of several human rights treaties. The Special Rapporteur notes that South Sudan has not yet ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Protocol of 2014 to the ILO Forced Labour Convention, 1930 (No. 29), or the ILO Domestic Workers Convention, 2011 (No. 189).

B. Domestic legal framework on trafficking in persons

68. The Special Rapporteur notes the absence of comprehensive legislation on trafficking in persons. However, several provisions of the Transitional Constitution,²⁵ as well as domestic legislation, including the Labour Act 2017, the Penal Code 2008, the Child Act 2008, the Refugee Act 2012 and the Passport and Immigration Act 2011, are relevant to the prevention of trafficking in persons, the protection of victims and the promotion of accountability.

69. The Special Rapporteur is concerned that the absence of a single comprehensive legislative framework on trafficking in persons, including trafficking in children, creates confusion and inconsistencies in the application of the law and further hinders training, capacity-building and the effective implementation of measures to combat impunity, enhance effective investigations and ensure effective proportionate and dissuasive sanctions. The Special Rapporteur highlights the proposals for reform to ensure a consistent, human rights law-compliant legislative framework on trafficking in persons. In particular, the Special Rapporteur highlights and welcomes the important work of the National Task Force to Counter Trafficking in Persons and Smuggling of Migrants on a legal gaps analysis, which highlighted the need for comprehensive legislation on trafficking in persons to provide a legislative framework to combat all forms of trafficking, including trafficking in children, and to ensure assistance for and protection of victims and witnesses, as well as a legislative framework to strengthen international cooperation and provision for mutual legal assistance.²⁶

70. The Penal Code 2008 includes several provisions relevant to trafficking in persons. Of concern, however, is the absence of a comprehensive definition of trafficking in persons in line with the international legal definition and international human rights law, international humanitarian law and international criminal law. Currently, elements of the crime of trafficking are found in several different provisions of the Penal Code, with inconsistencies arising between the Penal Code, the Child Act and the Labour Act, all of which include relevant legislative provisions on trafficking in persons. Concerns have also been noted with regard to inconsistencies in the penalties to be applied and sentencing guidelines specific to crimes of trafficking in persons. A lack of clarity in relation to the imposition of fines for trafficking offences, and the amounts of such fines, adds to the failure to ensure effective, dissuasive and proportionate sanctions.

71. The Special Rapporteur highlights the absence of a provision on non-punishment of victims of trafficking and the lack of awareness among law enforcement and justice sector

²⁵ For example, article 13 of the Transitional Constitution prohibits slavery and the slave trade in all forms and provides that no person is to be held in slavery or servitude or required to perform forced or compulsory labour.

²⁶ See International Organization for Migration, *Trafficking in Persons in South Sudan*.

actors, immigration officials and border guards of the scope and content of the non-punishment principle. The lack of knowledge of practical applications of the non-punishment principle has resulted in victims of trafficking being arrested and detained, including at border crossings, and held in immigration-related detention. The application of the non-punishment principle to children affected by armed conflict, including in the context of recruitment and use by armed forces or armed groups, is not widely understood.

72. The Special Rapporteur also highlights the specific context of the pluralist legal system of South Sudan and the relevance of customary laws to trafficking in persons for all purposes of exploitation.²⁷ While the subject matter jurisdictional lines bring trafficking in persons within the scope of statutory law, including the Penal Code, the Child Act and the Labour Act, for many communities the absence of a formal judicial infrastructure has resulted in the continuing application of the customary system to both combat impunity and provide access to remedies to victims. The widely diverging customary practices and norms add to the difficulties for victims in accessing effective remedies, in particular where gendered norms relating to marriage, family, sexual and gender-based violence and the rights of the child are prevalent, and they reinforce rather than challenge discriminatory norms and practices against women and girls.

C. Policy framework and institutional framework

73. The Special Rapporteur highlights the positive work undertaken by the National Task Force to Counter Trafficking in Persons and Smuggling of Migrants in terms of legislative and policy reform on trafficking in persons in preparation for ratification of the Trafficking in Persons Protocol, as well as plans for the implementation of a comprehensive migration policy and legislation. The Special Rapporteur welcomes the National Comprehensive Migration Policy²⁸ and highlights the need to support human rights-based safe migration policies.

74. The activities of the National Task Force to Counter Trafficking in Persons and Smuggling of Migrants have included country-wide awareness-raising meetings and consultations on trafficking in persons. The proposed establishment of technical working groups on labour migration, migration data and displacement and climate-induced migration is welcome. If progressed, their work will be important for expanding opportunities for safe and regular migration. Implementation of existing policies remains challenging due to limited public resources and weak coordination among national, state and local administrations.

75. The Special Rapporteur highlights the important leadership role of South Sudan at the regional level, as Chair of the Steering Committee of the Khartoum Process²⁹ and a signatory of the Declaration of the Ministerial Conference of the Khartoum Process. South Sudan has also engaged with the Global Compact for Safe, Orderly and Regular Migration, through proposals for the preparation of a comprehensive migration policy, participated in the Interministerial Conference on Migration, Environment and Climate Change held in Kampala from 27 to 29 July 2022, and continues to highlight the impact of climate change on displacement and migration.

IV. Assistance to and protection of trafficked persons

76. The lack of assistance and protection services for survivors of trafficking was repeatedly highlighted during the visit of the Special Rapporteur. While ad hoc project-based

²⁷ See United Nations Development Programme, *Study on the Harmonisation of Customary Laws and the National Legal System in South Sudan* (2016).

²⁸ See <https://docs.southsudannforum.org/sites/default/files/2021-06/SOUTH%20SUDAN%20MIGRATION%20POLICY.PDF>.

²⁹ The Steering Committee comprises five European Union member States (France, Germany, Italy, Netherlands (Kingdom of the) and Sweden) and five African partner countries (Egypt, Eritrea, Ethiopia, South Sudan and Sudan), as well as the European Commission, the European External Action Service and the African Union Commission. Other African member States include Djibouti, Libya, Somalia, Tunisia and Uganda.

support is available through specialized non-governmental organizations, funding is extremely limited, and access to assistance and protection is severely restricted across South Sudan. This limits the availability of psychosocial services, medical assistance and reproductive and sexual health services and of education, training and employment opportunities for survivors. The lack of access to such assistance hinders recovery and social inclusion and increases risks of re-trafficking and continuing exploitation.

77. The Special Rapporteur highlights ongoing programmes relating to sexual and gender-based violence and child protection that could usefully integrate further action to prevent trafficking in persons, especially women and children, and to develop survivor-centred responses that are trauma-informed. Currently, however, a lack of attention is paid to trafficking in persons in a wide range of policies and programmes relating to gender equality, sexual and gender-based violence, women's empowerment and the rights of the child.

A. Identification of victims or potential victims of trafficking

78. The Special Rapporteur highlights the positive obligation of the State to identify victims of trafficking and ensure assistance and protection. It is critically important to ensure engagement by a range of actors, including health-care workers, border guards, social workers, law enforcement authorities and, in the context of high numbers of internally displaced persons and refugees, camp administration and management.

79. The Special Rapporteur notes the availability of a wide range of screening tools, guidelines and standard operating procedures to ensure the identification and protection of victims of trafficking, as well as ongoing work to ensure referral pathways and positive action to identify victims and persons at risk of trafficking.³⁰ However, the Special Rapporteur is concerned at the lack of attention to identification of victims of trafficking within South Sudan, and the need to engage a wider range of actors, including health-care workers. The Special Rapporteur highlights the importance of engaging the labour inspectorate, once functioning in practice, to identify persons at risk, in particular in the informal economy and in harder-to-reach sectors such as the mining sector and domestic work.

80. As noted earlier, in relation to victims of trafficking for purposes of sexual exploitation, the Special Rapporteur is concerned that the prevalence of stigma and discriminatory attitudes on the part of police, health-care workers and social workers hinder identification and the provision of assistance to victims. Concerns were also raised with the Special Rapporteur that migrant and refugee children who are victims of trafficking are often identified as adults, with serious consequences for their protection, including forced removal and the risk of re-oulement.

B. Services provided to victims

81. The Special Rapporteur is seriously concerned at the limited assistance and protection available to victims of trafficking, and the very limited awareness of the specific needs of trafficked persons and the obligation to provide gender-sensitive, trauma-informed and survivor-centred assistance, in both the short and longer term. The Special Rapporteur heard accounts of victims of trafficking, including sex workers, and foreign national victims of trafficking being held in detention and not being provided with any assistance or protection.

82. The Special Rapporteur was informed of ongoing work to develop 16 hospital-based one-stop crisis centres dedicated to victims of sexual and gender-based violence, which will also be able to provide services to victims of trafficking. However, the Special Rapporteur notes that there are gaps in training on the rights and needs of trafficked persons, and on the range of purposes of exploitation. The Special Rapporteur welcomes the recognition of

³⁰ See International Organization for Migration and Office of the United Nations High Commissioner for Refugees, "Framework document: developing standard operating procedures to facilitate the identification and protection of victims of trafficking" (Geneva, 2020).

trafficking in persons as a protection need in the most recent humanitarian needs assessment of the Office for the Coordination of Humanitarian Affairs of the Secretariat.³¹

83. The Special Rapporteur heard first hand of the need to provide facilities and support for survivors, in particular for unaccompanied and separated children, at risk of trafficking. Measures have been taken to provide training and capacity-building in the context of integrated border management with border police to identify victims of trafficking and persons at risk of trafficking at border crossings. However, limited resources and facilities to assist and ensure protection for survivors, including at border crossings, remain a serious concern.

V. Investigation, prosecution and access to justice

84. The Special Rapporteur welcomes the launch of the first gender-based violence and juvenile court in 2020 and the provision made for child-friendly justice proceedings, including the provision of videoconferencing equipment to ensure the privacy and well-being of victims by reducing contact with perpetrators, as well as a separated reception, and two juvenile courtrooms. The Special Rapporteur highlights the potential to use such facilities for trafficking in persons cases, taking into account the obligation to ensure access to justice and protection of victims and witnesses. The Special Rapporteur welcomes ongoing programmes to expand the use of mobile courts and to expand the police special protection units and the Women and Child Unit in the Directorate of Public Prosecutions.

85. The Special Rapporteur highlights the importance of continued strengthening of capacity within the police, prosecution and judiciary to respond to trafficking in persons, especially women and children. The limited capacity of the justice sector remains a serious concern. Mobile courts have not been functioning in some parts of the country, due to the impact of flooding and displacement, leaving victims and survivors without any access to courts and allowing for continued impunity for serious human rights violations and serious crimes related to trafficking in persons.

86. Despite elements of crimes related to trafficking in persons in a number of provisions in the Penal Code, the number of investigations and convictions in trafficking in persons cases remains low. Furthermore, many cases of trafficking in persons, in particular cases of the abduction of women and girls for purposes of child and forced marriage, continue to be resolved under customary law, with limited information available on the outcomes of the proceedings or the assistance given to victims. The Special Rapporteur notes with concern reports that women are often discouraged by police from filing complaints, in particular against relatives, and are not afforded protection measures in legal proceedings, including for witnesses. Gender bias and discrimination against women and girls in customary courts and dispute resolution proceedings hinder access to justice.

87. The Special Rapporteur highlights the requests from the ILO Committee of Experts to the Government to provide information on the application of the Child Act and the Penal Code in practice, including, for example, statistics on the number and nature of offences reported and investigations, prosecutions, convictions and penal sanctions imposed with regard to trafficking in children. These requests remain outstanding.³²

88. The Special Rapporteur highlights the development of sentencing guidelines for gender-based violence and juvenile courts to promote consistency in sentencing for gender-based crimes and increase public understanding of sentencing. Other important new initiatives include the establishment of a gender-based violence and juvenile courts users committee to bring together justice and security actors and social workers to facilitate regular exchanges and collect data, disaggregated by gender and age, on the number of gender-based violence and juvenile victims. The Special Rapporteur highlights that such programmes

³¹ See Office for the Coordination of Humanitarian Affairs, *Humanitarian Needs Overview: South Sudan* (November 2022).

³² See https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4325430,2697100:NO.

could be expanded to promote better understanding of the administration of justice in cases of trafficking in persons, especially women and children.

89. The Special Rapporteur highlights ongoing work to strengthen the investigative capacity of police services and to provide training on identification, referral and assistance to victims. The Special Rapporteur welcomes measures to strengthen regional and international cooperation, in particular in the investigation of trafficking cases, in tracing missing persons who may be victims of trafficking and in strengthening identification and referrals for protection. The Special Rapporteur highlights the large numbers of missing persons in South Sudan and the need for more effective investigations and tracing.

90. The Special Rapporteur also highlights ongoing measures and programmes to expand access to justice but expresses concern at the limited access to legal aid, which hinders accountability and access to justice for victims of trafficking.

VI. Partnership: the role of civil society

91. Partnership with civil society is critical to prevent trafficking in persons and to provide assistance to and protection of victims. The role of civil society needs to be strengthened and supported in South Sudan, to identify and assist victims, including in providing accommodation, specialized services and long-term support to access education, training and employment opportunities. The Special Rapporteur highlights the urgency of ensuring sustained, long-term funding to civil society to provide assistance to victims, prevent trafficking in persons and provide protection through survivor-centred and survivor-led programmes.

VII. Peacebuilding, transitional justice, and demobilization, disarmament and reintegration

92. It is critical that transitional justice mechanisms and reparations address conflict-related trafficking, including recruitment and use of children and trafficking for purposes of child and forced marriage, domestic servitude, forced labour and forced criminality. It is a concern that there may be limited awareness of the forms of trafficking that occur in the context of conflict, and limited attention given to conflict-related trafficking in the emerging transitional justice processes.

93. The continuing prevalence of weapons throughout South Sudan is a serious concern. The availability of weapons increases risks of trafficking, including through child abductions, and is linked to sexual and gender-based violence. Disarmament and demobilization remain a priority and are critical to supporting peacebuilding and preventing the disruption of peacebuilding.

VIII. Conclusion and recommendations

94. **The prevention of trafficking in persons, especially women and children, is essential to achieving the Sustainable Development Goals, in particular to progressing gender equality, ending violence against children in all its forms, ending child labour and child marriage, ensuring just and fair conditions of work and decent work opportunities, reducing inequalities and strengthening peace and justice institutions. Trafficking in persons is a serious human rights violation and a serious crime that undermines and threatens the fragile processes of State-building and peacebuilding.**

95. **The Special Rapporteur recommends that the Government of South Sudan:**

(a) **Ratify the Trafficking in Persons Protocol and core international and regional human rights treaties;**

(b) **Adopt a human rights-compliant law on trafficking in persons that harmonizes current criminal law provisions and includes provisions on prevention, assistance and protection, effective investigations and partnerships with civil society;**

- (c) **Develop national referral mechanisms and minimum standard services to assist victims, including child-specific national referral mechanisms;**
- (d) **Develop a strategy for the elimination of all forms of trafficking in children, including in the context of armed conflict, displacement and climate change;**
- (e) **Strengthen action to prevent trafficking of persons with disabilities, in particular children with disabilities, and ensure that measures to combat trafficking and protect victims ensure the rights of persons with disabilities;**
- (f) **Strengthen capacity to identify, assist and protect child victims of trafficking, including through targeted legislation and enforcement of laws on child labour;**
- (g) **Strengthen the capacity of law enforcement authorities and child protection services to prevent trafficking for purposes of child marriage, domestic servitude, child labour and forced criminality through action against abductions and the activities of armed groups and armed forces;**
- (h) **Continue to implement the Comprehensive Action Plan to End and Prevent all Grave Violations against Children, including action to prevent conflict-related trafficking of children linked to grave violations and ensure accountability;**
- (i) **Endorse the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers and the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, and fully implement the Safe Schools Declaration, which it has endorsed;**
- (j) **Strengthen implementation of the action plan to end child marriage, in particular through the empowerment of girls and expanded access to education and training;**
- (k) **Continue to strengthen the accessibility and affordability of civil registration procedures, such as the prompt issuance of birth certificates, to strengthen age verification, and of marriage certificates, to prevent certain forms of trafficking;**
- (l) **Work with local communities and households, in particular female-headed households, and expand social protection and child protection measures to create safety nets for at-risk communities and families, to prevent trafficking in persons;**
- (m) **Engage with health-care workers to identify and assist victims of trafficking for all purposes of exploitation;**
- (n) **Provide exit programmes for women wishing to leave sex work, including older women, provide alternative income-generating opportunities, education and training, take measures to combat discrimination and harmful stereotypes in relation to sex workers and ensure effective access to assistance and protection for all victims of trafficking for purposes of sexual exploitation;**
- (o) **Expand the provision of one-stop shelters and long-term specialized assistance to victims that is trauma-informed, gender-sensitive and survivor-centred, including through the provision of safe, accessible accommodation, psychosocial assistance and medical assistance, including reproductive and sexual health services, and access to education, training and employment, and legal aid;**
- (p) **Provide training on the identification of men and boys who are victims of trafficking, and gender-sensitive measures to ensure assistance and protection;**
- (q) **Expand the provision of legal aid to ensure access to remedies, including compensation, for victims and survivors of trafficking;**
- (r) **Strengthen the capacity, independence and resources of the labour inspectorate and labour courts, in particular in relation to high-risk sectors such as the mining, hospitality, catering, entertainment, construction and agricultural sectors and domestic work;**

(s) Effectively implement the 2017 Labour Act provisions for the licensing and monitoring of recruitment agencies, and provide pre-departure training for migrant workers, addressing in particular the gender dimensions of the risks of trafficking;

(t) Strengthen the capacity of consular officials and embassies to provide assistance to victims of trafficking, including through repatriation;

(u) Strengthen assistance and protection services at border crossings, including the provision of safe, accessible accommodation, and continue training and capacity-building on human rights-based, gender-sensitive and trauma-informed identification and protection measures;

(v) Ensure access to justice through the specialization of courts and prosecution and police services on trafficking in persons and the rights of victims;

(w) Ensure that sentences for trafficking in persons are effective, dissuasive and proportionate, and adopt sentencing guidelines;

(x) Continue to expand the participation of women in the police service, including at leadership levels, providing training and capacity-building to support progression;

(y) Expand the participation of women in all institutions of the justice sector, including the judiciary, and provide training and capacity-building to support progression to leadership roles;

(z) Enact and implement a legislative provision on the principle of non-punishment and provide training to all justice sector actors, including border police, police officers, prosecutors and the judiciary, on the implementation of the principle;

(aa) Ensure an enabling environment for civil society and strengthen partnerships with civil society in a new national referral mechanism and through a national action plan on trafficking in persons;

(bb) Progress demobilization, disarmament and reintegration, and security sector reform;

(cc) Support and expand youth, peace and security measures through expanding the participation of young people in peacebuilding programmes, highlighting the prevention of trafficking in persons and the protection of victims and survivors, including through survivor-led initiatives, in all peacebuilding actions;

(dd) Integrate survivor-centred and survivor-led actions to combat trafficking in persons in women and peace and security action plans and implementing measures;

(ee) Ensure that conflict-related trafficking in persons is investigated and that accountability is ensured, including access to justice and reparations for survivors, as envisaged under the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan.

96. The Special Rapporteur recommends that development partners and United Nations entities:

(a) Support human rights-based responses to trafficking in persons, especially women and children;

(b) Integrate survivor-centred measures to prevent trafficking in persons for all purposes of exploitation and ensure sustainable, trauma-informed and gender-sensitive assistance and protection to trafficked persons, supporting survivor-led programmes and responses.