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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## Visit to Colombia

### **Report of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally\*, \*\***

#### *Summary*

The Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, undertook a country visit to Colombia from 22 to 31 May 2023. She welcomes the country's commitment to combating all forms of trafficking in persons. In the present report, the Special Rapporteur addresses all forms of trafficking in persons and makes recommendations to strengthen prevention, protection and accountability measures.

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\* Agreement was reached to publish the present document after the standard publication date owing to circumstances beyond the submitter's control.

\*\* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission and Spanish only.



## **Annex**

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

#### **I. Introduction**

1. The Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, conducted a visit to Colombia from 22 to 31 May 2023 to assess the situation of trafficking in persons, especially women and children. She thanks the Government of Colombia for the cooperation shown before, during and after the visit. In particular, she thanks the Ministry of Foreign Affairs for its excellent support and well-organized engagement. She commends the cooperative approach of all authorities and their willingness to engage in an open and constructive dialogue.

2. The Special Rapporteur met with the Deputy Minister of Foreign Affairs and representatives of the Ministry of Foreign Affairs, including from the Internal Working Group on Crime Prevention within the Directorate for Political and Multilateral Affairs and the Directorate for Migration and Consular and Citizen's Services. She also met with representatives of the Ministry of Labour and of the Labour Inspectorate, the Deputy Minister of the Interior and representatives of the Ministry of the Interior, including the Directorate for Participation and Equality, Migration Colombia, the Colombian Family Welfare Institute and the Anti-Trafficking Operations Centre, representatives of the Prosecutor General's Office, the Ministry of Defence, the Attorney General's Office, the national police, the Ministry of Health and Social Protection, the Ministry of Education, transitional justice mechanism bodies, the Unit for the Search for Persons deemed Missing in the context of and due to the armed conflict, the Special Jurisdiction for Peace, the Follow-up and Monitoring Committee tasked with verifying the implementation of the recommendations of the Commission for the Clarification of Truth, Coexistence and Non-Repetition, and local and departmental authorities in Bogotá, Cartagena, Cúcuta, Medellín and Ipiales that form part of the territorial mechanisms to combat trafficking in persons.

3. The Special Rapporteur visited Bogotá, Cartagena, Cúcuta, Apartadó, Necoclí, Pasto and Ipiales and met with the President and members of the Constitutional Court and the Ombudsman. She also met with representatives of United Nations agencies in Bogotá and in field offices, and visited Cúcuta prison.

4. The Special Rapporteur is grateful to the United Nations country team, in particular the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Colombia, for its excellent support during the visit, and to the United Nations agencies that facilitated meetings and arranged visits.

5. During her visit, the Special Rapporteur met with human rights defenders, representatives of civil society and victims of trafficking in persons for all purposes of exploitation. The Special Rapporteur is particularly grateful to the victims of trafficking in persons, and their family members, who met with her and whose testimonies of serious human rights violations informed the analysis and recommendations contained in the present report.

#### **II. Background and context**

6. The Special Rapporteur notes that the current situation in Colombia continues to be characterized by serious human rights violations, including serious risks of trafficking in persons, in particular where non-State armed groups maintain control over territories and control and restrict freedom of movement through measures of confinement and systemic

violence targeted at Indigenous, Afro-Colombian and rural communities in particular.<sup>1</sup> In addition, local and regional organized criminal groups and transnational criminal organizations are engaged in trafficking in persons for all purposes of exploitation.<sup>2</sup>

7. Highlighted throughout the visit were concerns in relation to potential links between and overlapping criminal activities of criminal organizations engaged in trafficking in persons and non-State armed groups involved in related activities, including potentially illegal mining and deforestation, coca production, sale and supply, sexual exploitation of women and girls, and the recruitment and use of children (which is a form of trafficking in persons). Given the complex challenges faced, the efforts of the Government to address serious crime and disarm and demobilize armed groups require continuing support.

8. Serious concerns remain in relation to continuing violence and crime, including kidnapping, extortion, forced recruitment and conflict-related sexual violence, that have persisted or increased and are considered to be closely linked to economic dynamics and social and territorial control. These crimes are closely linked to and may be indicators of trafficking in persons for purposes of sexual exploitation, sexual slavery, child and forced marriage and forced criminality. Indigenous Peoples, Afro-Colombians and communities in Antioquia, Bolívar, Cauca, Chocó, Nariño and Putumayo Departments are particularly affected.<sup>3</sup> The Special Rapporteur welcomes the differential approach adopted by the Agency for Reintegration and Normalization to combat the recruitment and use of children, promote gender equality and combat gender-based violence.

9. Colombia hosts nearly 3 million Venezuelan refugees and migrants, with approximately 2.4 million benefiting from temporary protection status, which was introduced by government decree in 2021 in response to the situation in the Bolivarian Republic of Venezuela. The Special Rapporteur highlights the importance of this programme, which has made a significant contribution to preventing trafficking in persons and other forms of exploitation. Temporary protection status provides for regularization, access to formal employment, education, health care, financial services and a 10-year stay permit.<sup>4</sup> Provision is also made for applying for permanent residence.<sup>5</sup> The shared responsibility demonstrated by Colombia in hosting Venezuelan migrants and refugees is significant and must be supported to ensure continued progress in securing access to international protection, regularization and social inclusion through the realization of socioeconomic rights for all Venezuelan migrants and refugees, including those in an irregular situation, who are highly vulnerable to exploitation.

## **A. 2030 Agenda for Sustainable Development and the Sustainable Development Goals**

10. Trafficking in persons is deeply rooted in inequality, poverty, gender inequality, discrimination and displacement. Of particular relevance to action to combat trafficking in persons are Sustainable Development Goals 5, 8 and 16. The upcoming voluntary national review of Colombia is an important opportunity to highlight the action taken to combat trafficking in persons.

11. The Special Rapporteur welcomes the attention paid, in the humanitarian response plan for 2023, to protection risks in areas at high risk of climate-related disasters and in conflict-affected areas, and the priority given to women, children, Afro-Colombian and Indigenous Peoples, and persons with disabilities. The Special Rapporteur also welcomes the adoption of the National Development Plan 2022–2026. Actions to prevent trafficking in

<sup>1</sup> OHCHR Colombia, *Violencia Territorial en Colombia: Recomendaciones para el Nuevo Gobierno*, paras. 47–50; and Office for the Coordination of Humanitarian Affairs, “Colombia: informe de situación humanitaria 2023” (24 November 2023). See also A/HRC/WG.6/44/COL/2, para. 13.

<sup>2</sup> See <https://alertasstg.blob.core.windows.net/alertas/022-23.pdf>.

<sup>3</sup> S/2023/1033, para. 60.

<sup>4</sup> Migration Colombia, resolution No. 971 of 2021.

<sup>5</sup> See <https://www.cancilleria.gov.co/v/venezolanosetpv>.

persons must be integral to development planning and the achievement of the Sustainable Development Goals.

## **B. Conflict-related trafficking in persons**

12. During her visit, the Special Rapporteur was particularly concerned at the continuing impact of the armed conflict, the incidence of conflict-related trafficking and the presence of armed groups engaging in trafficking in persons, especially women and children.<sup>6</sup> Enforced disappearances, abductions, forced recruitment, child and forced marriage, sexual slavery, the recruitment and use of children and femicides may also be linked to trafficking in persons.

13. The Special Rapporteur welcomes the progress made on disarmament, demobilization and reintegration since the signing of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace between the Government of Colombia and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP), including through the work of the Agency for Reintegration and Normalization. However, the prevalence of small arms, weapons and armed groups is a significant obstacle to combating trafficking in persons.

14. The Special Rapporteur also welcomes the approval by the National Reintegration Council of the family reunification programme and highlights the need for adequate resourcing for the care of children of former combatants that ensures their best interests.

15. The continued incidence of forced recruitment by armed groups among Indigenous and Afro-Colombian communities, as well as the recruitment and use of children, is a serious concern. The holding of the first national gathering of Indigenous and Afro-Colombian former combatants, in October 2023, and the agreement between the Agency for Reintegration and Normalization and ethnic organizations regarding the special harmonization programme for Afro-Colombian and Indigenous communities are welcome.<sup>7</sup>

16. The Special Rapporteur welcomes the focus on the economic empowerment of women former combatants by the Agency for Reintegration and Normalization, noting that such empowerment is essential to the prevention of all forms of exploitation and violence, including trafficking in persons.

17. Measures to strengthen reintegration processes with a broader focus on community-based initiatives and the leadership of women former combatants are critical.

## **C. Conflict-related sexual violence and trafficking in persons**

18. The prevalence of conflict-related sexual violence has been well documented and remains an urgent concern. Conflict-related trafficking includes trafficking for purposes of sexual exploitation, sexual slavery, child and forced marriage, domestic servitude and the recruitment and use of children by armed groups. Gender stereotypes and systemic gender-based discrimination against women and girls and persistent racial discrimination affecting Afro-Colombian and Indigenous communities in particular contribute to the normalization of the recruitment of girls for purposes of sexual exploitation, child and forced marriage and sexual slavery.<sup>8</sup>

## **D. Displacement and trafficking in persons**

19. In Colombia, more than 6.8 million people are internally displaced, and more than 1 million new displacements have occurred since the signing, in 2016, of the Peace Agreement.

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<sup>6</sup> A/HRC/52/25, paras. 45–47.

<sup>7</sup> S/2023/1033, paras. 55 and 56.

<sup>8</sup> Ibid., paras. 44–48.

20. Displacement, including climate- and disaster-related displacement, contributes to increased risks of trafficking in persons due to loss of livelihoods (in particular for rural and campesino communities), loss of housing, disruption in access to education and breakdown of community and family networks.<sup>9</sup> Displacement and confinement have a disproportionate impact on Afro-Colombian and Indigenous communities.<sup>10</sup>

21. The Special Rapporteur welcomes the measures proposed as part of the Secretary-General's Action Agenda on Internal Displacement that combine humanitarian responses, development and peacebuilding. She highlights the positive obligations to prevent trafficking in persons among internally displaced persons and to ensure effective access to assistance and protection, including as part of United Nations planning frameworks and actions to achieve the Sustainable Development Goals.

### III. General trends

#### A. Trafficking in the context of migration

22. Serious concerns remain about the risks of trafficking in persons and other serious human rights violations faced by migrants and refugees, in particular children and adolescents, transiting through the Darién Gap.<sup>11</sup> In 2023, the numbers of refugees and migrants crossing the Darién Gap exceeded 500,000; the number of children and adolescents was estimated at 90,000, a significant portion of whom were under 5 years old. The risks faced by migrants and refugees during this journey are alarming. Children, women, lesbian, gay, bisexual and transgender persons and persons with disabilities were reported as particularly at risk of sexual violence and other serious human rights violations, including trafficking, while transiting through the Darién Gap. The countries of origin of those transiting in 2023 were primarily the Bolivarian Republic of Venezuela, followed by Haiti and then Ecuador. Other countries of origin included Afghanistan, Brazil, Chile, China and Peru.<sup>12</sup>

23. Armed groups, including Clan del Golfo, and criminal organizations are present and actively engaged in trafficking in persons in border areas and in the Darién Gap. During her visit, the Special Rapporteur visited several border areas, including the Gulf of Urabá region (Apartado and Necoclí),<sup>13</sup> and observed the precarious conditions, lack of safe accommodation and serious risks of trafficking, in particular for women, families and children desperate to find the money to pay the exorbitant fees charged for onward travel through Panama to Mexico and the United States of America. The fees charged vary depending on the routes taken through the Darién Gap. Those with limited resources – often Haitians and Venezuelans – are forced to take longer and more dangerous paths, while those with more resources can take safer routes. The Special Rapporteur notes the adoption by the Attorney General's Office of resolution No. 0-0662 on 6 December 2023, creating a strategy to strengthen financial investigations and prosecutions in relation to the smuggling of migrants in the Gulf of Urabá. She also notes the expanded cooperation between Migration Colombia, the national police and police agencies of Ecuador, Panama and Peru to strengthen the identification of victims of trafficking.

<sup>9</sup> Office for the Coordination of Humanitarian Affairs, "Colombia: informe de situación humanitaria 2023".

<sup>10</sup> More than 30 per cent of the displaced population in Colombia identifies as Afro-Colombian and more than 50 per cent of the confined population identifies as Indigenous (Office of the United Nations High Commissioner for Refugees, "Monitoring of humanitarian emergencies/Colombia: large-group internal displacement and confinements" (2023), p. 2).

<sup>11</sup> United Nations Children's Fund, "Protection risks: in transit migrant and refugee children and adolescents" (November 2023).

<sup>12</sup> See <https://www.r4v.info/es/document/colombia-migrantes-irregulares-en-transito-migracion-colombia-corte-31-diciembre-2023>.

<sup>13</sup> In 2023, Migration Colombia reported that, of the 539,959 migrants in an irregular situation arriving in Colombia, 343,112 had left Colombia through Necoclí.

24. The Special Rapporteur takes note of the trilateral statement issued on 11 April 2023 by Colombia, Panama and the United States, and the road map and joint communiqué issued on 14 February 2023, which include commitments to new lawful and flexible pathways for migrants and refugees, measures to end irregular migration and a plan to reduce poverty and improve public service delivery in border communities.

25. The Special Rapporteur is concerned about the limited presence of civilian authorities, including child protection and law enforcement authorities, in border areas. The serious risks of trafficking in persons and other human rights violations resulted in the issuing, on 11 April 2023, of binational early warnings by the Ombudsman for the Antioquia and Chocó regions.<sup>14</sup> The Special Rapporteur notes the opening of an investigation by the Special Directorate on Human Rights Violations in response to the early warnings, with the engagement of a specialized prosecutor and investigators. Concerns were raised, however, at the continued lack of resources and protection pathways in practice for victims and persons at risk of trafficking.

26. The presence of and control exercised by armed groups and criminal organizations hinder prevention and protection measures and limit the functioning of civilian authorities. During the visit, concerns were raised in relation to possible corruption within law enforcement bodies and the weakness of law enforcement in some regions, in particular rural, border and conflict-affected areas. Trafficking by criminal networks and armed groups has affected children and young people from Afro-Colombian and Indigenous communities in border areas and along smuggling routes in particular. They are targeted and recruited for purposes of forced criminality, recruitment and use, including as guides and baggage carriers through the Darién Gap.

27. The Special Rapporteur highlights the underreporting of trafficking in persons, because of fear of and risks of reprisals by armed groups and criminal organizations and the limited presence of civilian authorities.

28. The Special Rapporteur met with representatives of humanitarian actors, civil society and host communities and was deeply concerned about the lack of services and effective protection for persons, especially children, at risk of trafficking for purposes of sexual exploitation and forced criminality. She commends the commitment and courage of civil society and humanitarian actors, who operate at significant personal risk.

29. Concerns persist about the significant administrative delays encountered in the issuing of temporary protection permits and the continued obstacles for Venezuelan migrants and refugees in accessing health services, social security and formal employment, which increase their risks of exploitation.<sup>15</sup> The Special Rapporteur notes that temporary protection status is available only to irregular migrants from the Bolivarian Republic of Venezuela who were in Colombia before 31 January 2021. Venezuelans arriving irregularly since then are at high risk of exploitation, including trafficking in persons for purposes of sexual exploitation, which affects in particular women, girls and lesbian, gay, bisexual and transgender persons.

## **B. Trafficking in children, including conflict-related trafficking in children**

30. Abuse of children, including economic exploitation, is prohibited under article 44 of the Constitution of Colombia, which states the primacy of the rights of the child and provides for protection against abandonment, physical or moral violence, kidnapping, sale, sexual abuse and economic and labour exploitation. Article 9 of Act No. 985 of 2005, on trafficking in persons, designated the Colombian Family Welfare Institute as the main entity for providing assistance to children and adolescents who are victims of trafficking. The specific purposes of exploitation that it addresses are: sexual exploitation, servile marriage, forced labour, begging for others, servitude, illegal removal of organs and slavery and similar practices. The Special Rapporteur welcomes the differential approach to child rights, under

<sup>14</sup> See <https://alertasstg.blob.core.windows.net/alertas/014-23.pdf>.

<sup>15</sup> See <https://www.dejusticia.org/publication/derecho-a-la-atencion-en-salud-para-las-personas-migrantes-en-situacion-irregular-en-colombia-entre-estandares-normativos-y-barreras-practicas/>.

which the significance of gender, sexual orientation and diverse gender identities, disability status, race and ethnicity are recognized.

31. Further protections of child rights are included in Act No. 1098 of 2006, the Code on Childhood and Adolescence and public policy guidelines on the prevention and eradication of sexual commercial exploitation of children for the period 2018–2028.<sup>16</sup> Recruitment and use of children is a separate offence (art. 162 of the Criminal Code (Act No. 599 of 2000)). Laws, policies and actions to combat the recruitment and use of children by armed groups and criminal organizations form part of the State's response to trafficking in children. The crimes of trafficking in persons and sexual exploitation of children fall under separate provisions of the Criminal Code and trafficking in children is considered an aggravated offence (art. 188 (b)). The Criminal Code also addresses the sale of children in its article 188 (c) and sexual abuse against children in its title IV.

32. Trafficking in children by armed groups and criminal organizations in Colombia is a serious concern and a violation of international humanitarian and human rights law, as highlighted in the report of the Special Representative of the Secretary-General for Children and Armed Conflict.<sup>17</sup> Trafficking in children for a range of purposes of exploitation persists, including sexual exploitation, child marriage, exploitation in criminal activities, recruitment and use in support roles and in combat roles, and for purposes of domestic servitude. International law on trafficking in persons defines a child as any person under the age of 18 and specifies that it is not necessary to establish “means”, such as force or coercion, to qualify as trafficking.

33. In addition to combat roles, children are used by armed groups in support roles, such as acting as lookouts and assisting in activities such as the supply of narcotics and smuggling. Girls are specifically targeted for purposes of sexual exploitation, sexual slavery, child marriage and domestic servitude. Strategies of recruitment such as “*enamoramiento*”, in which girls are made to believe that they are entering into a relationship with members of armed groups, are used to target schools, communities and families. Afro-Colombian and Indigenous children are particularly at risk. The Human Rights Committee has recommended comprehensive, differentiated measures to prevent the recruitment of children and adolescents by armed groups for purposes of sexual exploitation and to strengthen protective environments in families, schools and communities.<sup>18</sup>

34. The Special Rapporteur expresses concern at the limited assistance and protection given to children who escape from armed groups or criminal organizations, as they are at high risk of reprisals, including killings, violence and re-trafficking. During the visit, concerns were raised about the underreporting of the recruitment and use of children due to the lack of trust in the protection mechanisms available, fear of reprisals and continuing concerns in relation to the possible complicity of law enforcement authorities in the activities of armed groups and criminal organizations.

35. Concerns were raised that the prevention of trafficking in children by armed groups and criminal organizations is not sufficiently prioritized in peacebuilding measures.

36. Where children and young people are demobilized, with limited protection or follow-up mechanisms in place, serious risks of re-trafficking remain. The Special Rapporteur is concerned that children are not recognized as victims, are not provided with assistance and protection measures and may be subject to criminal prosecution, in violation of the non-punishment principle. She highlights the particular vulnerability of children and the impact of intersectional and multiple discrimination based on race and ethnicity and gender.

37. Trafficking in children by armed groups and criminal organizations for purposes of child marriage remains a serious concern. Trafficking in girls from rural to urban areas for purposes of domestic servitude is also a serious concern and has an impact on communities

<sup>16</sup> See <https://www.mintrabajo.gov.co/politica-publica-para-la-prevencion-y-erradicacion-de-la-explotacion-sexual-comercial-de-ninas-ninos-y-adolescentes>. See also Decree No. 1036/16, Act No. 1801/16, Act No. 1719/14, Act No. 1622/13 and Act No. 742/02.

<sup>17</sup> A/77/895, para. 40.

<sup>18</sup> CCPR/C/COL/CO/8, para. 25.



living in extreme poverty. Trafficking in children affects Afro-Colombian and Indigenous communities in particular.<sup>19</sup>

38. The prevalence of child labour, some of which may constitute trafficking in children, is a serious concern, in particular in the domestic work sector. The Special Rapporteur highlights the need for strengthened action to eradicate child labour in the domestic work sector and stresses the high risks of trafficking in children and its links to the intersections of discrimination and marginalization on grounds of gender, race and ethnicity and migration status. She notes the continuing challenges in ensuring effective enforcement of labour laws and adequate resourcing and staffing of the Labour Inspectorate. The Special Rapporteur notes with concern allegations of corruption.<sup>20</sup> She notes the efforts to strengthen implementation of the public policy component for the prevention and eradication of child labour and the comprehensive protection of young workers for the period 2017–2027,<sup>21</sup> to prevent trafficking in children. The Special Rapporteur welcomes the establishment in 2022 of an elite group to undertake inspections to combat child labour, which comprises 50 inspectors who focus on the enforcement of child labour laws. She also welcomes the enactment of Act No. 2328 of 2023, establishing the national policy for the comprehensive development of children and adolescents, and highlights the urgency of effective implementation in practice throughout the country.

39. The Special Rapporteur was informed of continuing concerns relating to child labour, including trafficking for purposes of child labour in agriculture, coca production and mining, in particular in small-scale and informal mining. Measures to formalize the mining sector and the engagement of the private sector to ensure the enforcement of labour laws and anti-trafficking laws are essential, as is ensuring the effectiveness of the Labour Inspectorate and the police to identify, assist and ensure the protection of children who are victims of trafficking. Accountability for trafficking of children in domestic work and in mining remains limited, as reflected in the low rates of identification of victims, with continued impunity for perpetrators, including business enterprises. She welcomes the Latin America and the Caribbean Free of Child Labour Regional Initiative and the Government's institutionalization of the Risk of Child Labour Identification Model in order to identify the territories at higher risk of child labour, taking into account such criteria as armed conflict, economic production sectors, poverty figures and unemployment rates. Effective implementation and proactive identification of children who are victims and children at risk are essential. Continuing serious concerns remain in relation to the school dropout rates among Indigenous, Afro-Colombian and rural children, which results in high risks of trafficking.<sup>22</sup>

40. Children in street situations remain particularly vulnerable to trafficking. Concerns were raised during the visit in relation to children with disabilities, who are at risk of exploitation for purposes of begging. Children working in the informal sector, in domestic work and in street vending are particularly at risk of trafficking. Migrant and refugee Venezuelan children are particularly vulnerable, including in the informal sector and for purposes of sexual exploitation. Although Venezuelan children under 18 are eligible for temporary protection status, some migrant and refugee children face difficulties in obtaining that status due to administrative delays and the ineligibility of their adult guardians, thereby increasing barriers to access to education and vulnerability to trafficking in children.

41. Trafficking in children and adolescents for purposes of sexual exploitation in the context of travel and tourism is a serious and urgent concern in Colombia. The Special Rapporteur commends the attention paid to the prevention of trafficking in children. Further urgent action is needed, however. Continuing obstacles to effective investigations remain, in particular where transnational organized crime groups are implicated.

<sup>19</sup> See <https://www.unicef.org/colombia/media/9221/file/Informe%20Matrimonio%20infantil%20y%20uniones%20tempranas%20en%20Colombia.pdf>.

<sup>20</sup> See [https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13203:0::NO::P13203\\_COUNTRY\\_ID:102595](https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13203:0::NO::P13203_COUNTRY_ID:102595).

<sup>21</sup> See [https://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID,P13100\\_COUNTRY\\_ID:3996093,102595](https://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:3996093,102595).

<sup>22</sup> See [https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO::P13100\\_COMMENT\\_ID,P13100\\_COUNTRY\\_ID:4116971,102595:NO](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:4116971,102595:NO).



42. The Special Rapporteur welcomes the strengthening of international cooperation to prevent trafficking in children, and the commitment to identifying, protecting and providing comprehensive, trauma-informed care for children who are victims of trafficking.<sup>23</sup>

### C. Trafficking for purposes of labour exploitation

43. The Special Rapporteur expresses concern at the limited allocation of resources and capacity to respond effectively to trafficking for purposes of forced labour, which disproportionately affects Afro-Colombian, Indigenous and campesino communities, and migrants and refugees. Trafficking for purposes of forced labour occurs in sectors such as mining, construction, agriculture and domestic work and in illicit activities including coca production and illegal mining. She highlights the need to strengthen prevention, assistance and protection measures in relation to trafficking in at-risk sectors. She commends the actions taken for the prevention of trafficking in persons for purposes of labour exploitation and the further training and capacity-building measures undertaken with the Ministry of Labour, the Attorney General's Office, the national police, the Ombudsman's Office, territorial entities and private companies at both the national and regional levels.

44. Data on trafficking in persons for purposes of labour exploitation are limited and do not reflect the scale of the human rights violations occurring. Under-identification and underreporting of trafficking for purposes of labour exploitation are serious concerns. In 2022, 8.8 per cent of identified victims of trafficking in persons were victims of trafficking for purposes of domestic servitude, 4.8 per cent for forced labour and 1.6 per cent for purposes of slavery.<sup>24</sup>

45. The Special Rapporteur welcomes the commitment to comprehensive rural reform to promote the rights of rural communities, in particular women, and recalls the importance of continued measures to strengthen the rights of Indigenous, Afro-Colombian and campesino communities and, in particular, rural women.<sup>25</sup>

46. She also welcomes proposals for the implementation of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

47. Trafficking in persons for purposes of forced labour by armed groups in the illegal mining sector, including in gold mining, is a serious concern. The Special Rapporteur highlights the concerns raised by the International Labour Organization (ILO) and by communities and civil society during her visit in relation to forced labour, poor working conditions and limited labour inspections or identification of victims of trafficking in the sectors concerned. Continuing inadequate resource allocation for the Labour Inspectorate, allegations of corruption and an insufficient number of labour inspectors hinder the prevention of trafficking for purposes of forced labour, in particular in rural areas and in conflict-affected areas.

48. Lack of protection for affected communities and families, risks of reprisals by armed groups and the limited presence of civilian authorities create a situation in which trafficking for purposes of forced labour continues. The Special Rapporteur highlights the concerns raised by ILO in relation to the exploitation of workers and trafficking in persons, in particular women for purposes of sexual exploitation, in regions where illegal mining is carried out.<sup>26</sup>

49. The establishment of a gender-responsive group within the Labour Inspectorate is welcome, as are proposals to issue humanitarian visas to victims of trafficking for purposes of forced labour who are in an irregular situation. With regard to the intersections of

<sup>23</sup> See <https://www.state.gov/child-protection-compact-partnership-between-the-government-of-the-united-states-of-america-and-the-government-of-the-republic-of-colombia/>.

<sup>24</sup> See <https://www.mininterior.gov.co/wp-content/uploads/2023/04/comportamiento-del-delito-durante-el-2022.pdf>.

<sup>25</sup> Peace Agreement, pp. 9–31. Available at <https://www.jep.gov.co/Documents/Acuerdo%20Final/Acuerdo%20Final%20Firmado.pdf>.

<sup>26</sup> See [https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P13100\\_COUNTRY\\_ID:3958750,102595:NO](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:3958750,102595:NO).

discrimination on the grounds of gender, race and ethnicity and migration status, there are urgent concerns in relation to the lack of investigations into allegations of trafficking in persons for purposes of forced labour in domestic work and the limited protection of domestic workers from all forms of forced or compulsory labour.<sup>27</sup>

50. Despite the adoption in 2022 of the emergency plan to protect social leaders and human rights defenders, the Special Rapporteur highlights the continuing security threats facing trade unionists, who play a critical role in preventing trafficking in persons and, through the promotion of labour rights, in ensuring the implementation of labour laws.

51. The Special Rapporteur also highlights the first and second national action plans on business and human rights and points to the continued need for effective due diligence measures to ensure the prevention of trafficking in persons for purposes of forced labour in high-risk sectors such as extractive mining. Concerns were raised during the visit about the prevalence of trafficking in persons for purposes of sexual exploitation connected to the presence of extractive mining, and the limited accountability therefor.

## **D. Trafficking in persons for purposes of sexual exploitation**

52. Trafficking for purposes of sexual exploitation is a serious concern. According to national data, the majority of cases identified in national statistics involve women (82 per cent) and trafficking for purposes of sexual exploitation (73.6 per cent).<sup>28</sup> During the visit, the Special Rapporteur visited communities affected by the growth of trafficking for purposes of sexual exploitation linked to the expansion of tourism in areas such as Cartagena, and along highways in the country, as well as in urban and rural territories. Criminal organizations and armed groups are heavily engaged in trafficking for purposes of sexual exploitation, including along highways and in networks of motels. They target women and girls, in particular Venezuelan migrants and refugees and Afro-Colombian communities. The Special Rapporteur highlights that trafficking for purposes of sexual exploitation affects children, adolescents and women in both urban and rural territories, in particular in departments such as Antioquia, Norte de Santander and Cundinamarca and the Capital District.

53. The Special Rapporteur notes that risks of sexual exploitation of men, boys and gender-diverse persons remain underreported, due to stigma, discrimination and violence, which also increases risks of trafficking and limits access to protection.

54. During her visit, the Special Rapporteur was informed about programmes, mostly provided by non-governmental organizations and faith-based groups, to prevent trafficking and to assist victims. However, access to safe accommodation and long-term assistance is limited, resulting in continuing cycles of re-trafficking and risks of reprisals against victims and their families. Access to legal aid and to compensation for victims is also limited. She met with victims who had not received any compensation or legal assistance and who remained without accommodation or access to training, employment or psychosocial assistance to support their recovery.

55. The Special Rapporteur takes note of draft law No. 186 of 2023, which is aimed at strengthening the protection of sex workers, specifically those seeking to exit sex work, and further strengthening the prevention of sexual exploitation of children.<sup>29</sup> She highlights the importance of supporting, through adequate resourcing, voluntary exit programmes for sex workers and of combating stigma and discrimination against sex workers, which increase marginalization, violence and underreporting of risks of trafficking.

<sup>27</sup> See [https://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID,P13100\\_COUNTRY\\_ID:3996093,102595](https://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:3996093,102595).

<sup>28</sup> See <https://www.mininterior.gov.co/wp-content/uploads/2023/04/comportamiento-del-delito-durante-el-2022.pdf>.

<sup>29</sup> See [http://www.secretariassenado.gov.co/legibus/legibus/gacetas/2023/GC\\_1479\\_2023.pdf#page=1](http://www.secretariassenado.gov.co/legibus/legibus/gacetas/2023/GC_1479_2023.pdf#page=1).

## **E. Rights of lesbian, gay, bisexual and transgender persons and gender-diverse persons**

56. The Special Rapporteur highlights the leading role of Colombia in promoting the rights of lesbian, gay, bisexual and transgender persons to equality, non-discrimination and protection against violence.<sup>30</sup> Conflict-related trafficking in lesbian, gay, bisexual and transgender persons, including for purposes of sexual exploitation and other purposes of exploitation, has been recognized as a tactic of armed groups and as part of a strategy of conflict-related violence and gender-based persecution. As yet, accountability for such serious violations of international humanitarian and human rights law has not been secured. Recruitment of gender-diverse children by armed groups is a continuing grave violation against children that must be urgently addressed.

57. The Special Rapporteur welcomes the opening by the Special Jurisdiction for Peace of macro case 11, after a more than a year of preliminary investigations. The case will involve the investigation of crimes of gender-based violence, sexual violence, reproductive violence and other crimes committed because of prejudice based on sexual orientation, gender expression and/or gender identity in the context of the Colombian armed conflict.<sup>31</sup>

58. Violence targeting lesbian, gay, bisexual and transgender persons in some urban centres and in rural areas persists. Risks of trafficking in lesbian, gay, bisexual and transgender persons and gender-diverse persons, including transgender sex workers, remain a serious concern. During her visit, the Special Rapporteur was informed of continuing discrimination and violence against lesbian, gay, bisexual and transgender persons and gender-diverse persons, including by some law enforcement authorities, which leads to underreporting of trafficking for purposes of sexual exploitation and failures of identification assistance and protection. Efforts to end such discrimination and violence are ongoing. In Medellín, for example, a new police action protocol for the care of transgender female sex workers to respond to allegations of discriminatory attitudes and abuses by police officers has been developed, in consultation with civil society.<sup>32</sup>

59. Concerns were also raised about the risks of trafficking in transgender migrant women, in particular transgender sex workers, the underreporting of exploitation because of fears of deportation and the lack of firewalls between police and immigration enforcement authorities.

60. The discrimination experienced by transgender sex workers when seeking to access health services was highlighted. The Special Rapporteur notes the potential of health-care workers to support the identification of victims of trafficking and referrals for assistance and protection.

61. The Special Rapporteur commends the important and courageous work of lesbian, gay, bisexual and transgender human rights defenders in Colombia, recalling the State's obligation to work in partnership with civil society to combat trafficking in persons.

## **IV. Legal, policy and institutional frameworks for combating trafficking in persons in Colombia**

### **A. International legal framework**

62. Colombia 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 the core international human rights

<sup>30</sup> See <https://colombiadiversa.org/avances/>; and <https://database.ilga.org/colombia-lgbti>.

<sup>31</sup> See <https://www.jep.gov.co/Sala-de-Prensa/Paginas/-la-jep-abre-macrocaso-11-que-investiga-la-violencia-basada-en-genero-incluyendo-violencia-sexual-y-reproductiva-y-crime.aspx>.

<sup>32</sup> See <https://www.medellin.gov.co/es/sala-de-prensa/noticias/medellin-presenta-protocolo-de-actuacion-policial-para-la-atencion-de-trabajadoras-sexuales-transfemeninas/>.

instruments.<sup>33</sup> The Special Rapporteur highlights that Colombia has also ratified 8 of the 10 fundamental ILO conventions, in addition to the Domestic Workers Convention, 2011 (No. 189), and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and relevant regional treaties, specifically, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women and the Inter-American Convention on International Traffic in Minors.

## **B. Trafficking in persons: domestic legislation**

63. Trafficking in persons, slavery and servitude are prohibited under article 17 of the Constitution of Colombia. The State has adopted comprehensive, human rights law-compliant legislation on trafficking in persons (Act No. 985). The definition of trafficking in persons is found in the Criminal Code (art. 188 (a)) and applies to acts occurring within the State or abroad. The definition of trafficking in persons does not include the requirement of means, but does include specific reference to the irrelevance of consent, differing, therefore, from the Trafficking in Persons Protocol. Article 2 of Act No. 985 sets out general principles, applicable in the interpretation of the law, that entail a human rights-compliant response to trafficking. Further, it states that the objective of the legislation is to prevent violations of human rights by reason of trafficking in persons and mandates a partnership approach, involving civil society and the private sector. In terms of coordination and strategy, Act No. 985 establishes the Inter-Agency Committee to Combat Trafficking in Persons, which is composed of representatives of public authorities and charged with defining the national strategy every four years (art. 13).

64. The Special Rapporteur commends the attention paid in domestic legislation to the prevention of trafficking in persons, and the statutory basis for assistance and protection of victims. She welcomes the commitment to the differential approach, under which the significance of gender, sexual orientation and diverse gender identities, disability status, race and ethnicity are recognized. In terms of prevention, the factors that increase vulnerability to trafficking, including inequality, poverty and discrimination in all its forms, are recognized in Act No. 985. That Act, highlighting the significance of racial injustice, calls for attention to be paid to the cultural and ethnic diversity of potential victims. Article 7 of the Act sets out the State's obligations and the rights of victims to assistance and protection. These are further elaborated in Decree No. 1069 of 2014 and Decree No. 1066 of 2015. The Special Rapporteur highlights the importance of updating Law No. 985 and its Regulatory Decree No. 1069 to provide for comprehensive, long-term assistance to support the recovery of victims, recognizing the trauma and serious human rights violations endured. Reference to additional specific purposes of exploitation, such as illegal adoption and biomedical experimentation, should also be included.

## **C. National policy and coordination, and data**

65. The Inter-Agency Committee to Combat Trafficking in Persons is chaired by the Ministry of the Interior and comprises 16 government entities. Implementation of the National Action Plan for the period 2020–2024 has progressed, with the adoption of territorial plans in all departments. However, the lack of sufficient budget allocation and resources to implement the territorial plans has hindered their effectiveness in practice, in particular outside of the capital, Bogotá, and in rural and border areas. The Special Rapporteur highlights the concerns raised during her visit on the need to assess the effectiveness of the Action Plan and to facilitate the participation of civil society and trade unions and Afro-Colombian, Indigenous and campesino communities in its implementation, in particular at the departmental level.

<sup>33</sup> Colombia has not yet ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or accepted the Inter-State communications procedure under the International Convention for the Protection of All Persons from Enforced Disappearance.

66. The Special Rapporteur commends the establishment of the Anti-Trafficking Operations Centre and territorial mechanisms to combat trafficking in persons and highlights the need for more effective coordination and planning on actions to combat trafficking across all levels of administration. The Inter-Agency Committee to Combat Trafficking in Persons coordinates local plans and actions implemented by the territorial mechanisms, in line with the national strategy for the period 2020–2024. Concerns were raised during the visit that current measures and assistance and protection responses are fragmented, in particular in relation to conflict-related trafficking.

67. The Special Rapporteur notes that disaggregated data on trafficking in persons are available, according to reports of the Anti-Trafficking Operations Centre. Data may be disaggregated by variables such as gender identity, life course, level of education, marital status, socioeconomic status, ethnicity and type of trafficking. However, she notes that, given the low levels of identification and underreporting of trafficking in persons, in particular in rural areas, existing data may not be sufficient to fully inform policy and strategy; such gaps should be addressed.

## **V. Assistance to and protection of trafficked persons**

68. Article 7 of Act No. 985 provides that assistance programmes are aimed at assisting in the physical, psychological and social recovery of victims, based on the protection of their human rights and of their privacy and identity. Immediate assistance programmes must meet, at a minimum, the following needs: (a) return of the victims to their place of origin, if they so request; (b) security; (c) accommodation, (d) appropriate medical and psychological material; and (e) information and legal advice regarding rights and the legal procedures to follow. A distinction is made between immediate assistance to victims, which is unconditional, and long-term assistance, which is conditional on the victim's participation in criminal proceedings. Long-term assistance includes training and support in seeking employment, and legal support, in particular in proceedings to seek compensation. Provision is also made for consular assistance for Colombian victims abroad, and for repatriation. However, the legislative guarantees are not implemented in practice, due to a lack of resources, insufficient staffing and the limited presence of civilian authorities in areas controlled by armed groups. The Special Rapporteur welcomes the increase in the budget of the national fund to combat trafficking in persons in 2023.

69. A protocol for identifying, protecting and assisting victims of trafficking in migration contexts was adopted in 2022. In the period 2019–2022, training on regulations and protocols for the identification of possible victims of trafficking in persons was provided to public officials working at immigration checkpoints and immigration service centres run by Migration Colombia. However, further training on implementation and enforcement is needed in practice. Sufficient resources are needed for the provision of protection routes and assistance measures, as well as the provision of safe accommodation, which remains very limited in border areas, where there is a significant presence of criminal organizations and armed groups.

70. The Ministry of Labour has introduced a victim identification protocol for labour inspectors. However, a comprehensive referral mechanism for investigations into trafficking needs to be developed. Concerns were raised during the visit that assistance for victims remains limited.

71. Identification of victims of trafficking and persons at risk of trafficking remains limited, with low numbers of victims identified. The majority of victims of trafficking who are identified are Colombian women who have been trafficked for purposes of sexual exploitation. The Special Rapporteur welcomes the increased efforts, including prevention and awareness-raising campaigns, undertaken by the Government in 2023.

72. Despite a legislative framework guaranteeing short- and long-term assistance to victims, implementation of the mandated assistance is limited in practice due to the lack of funding and personnel, in particular in territorial entities. The capacity to reach remote rural areas is very limited, which is exacerbated due to the control exercised by armed groups and criminal organizations. Support is available through international organizations,

non-governmental organizations and faith-based groups, but this is ad hoc and not comprehensive or long term. In the absence of assistance and protection, victims are vulnerable to revictimization and to reprisals from armed groups and criminal organizations.

73. The absence of safe accommodation for victims is particularly alarming. The Colombian Family Welfare Institute provides partial funding for two shelters that assist children who are victims of trafficking. The absence of specialized shelters in border zones affected by migration requires urgent attention, given the significant concerns in relation to trafficking and protection risks in those zones. At the time of the Special Rapporteur's visit, the Municipality of Bogotá was the only municipality that had allocated a budget for victim protection (since 2022).<sup>34</sup>

74. The provision of assistance and reparations to victims of conflict-related trafficking in persons is ongoing; however, it remains a challenge, in particular in areas under the control of armed groups. Concerns were raised during the visit that limited attention is paid to the specific needs and rights of Indigenous Peoples and campesino and Afro-Colombian communities.

75. The establishment of immediate action teams (by means of Decree No. 0461 of 2021) to prevent the recruitment and use of children and adolescents and to respond in emergency situations to provide assistance and protection is welcome. However, limited financial and human resources hinder their capacity to respond effectively.<sup>35</sup>

76. The persistence of conflict between armed groups has made it difficult for humanitarian organizations to access affected communities because of security conditions, which, in turn, limits the provision of assistance and protection measures to trafficked persons and persons at risk.

77. Against this background, the Special Rapporteur commends the efforts of the Constitutional Court to clarify the obligations of the State to identify and protect victims of trafficking, and the impact of its jurisprudence in making the State accountable, including regarding law enforcement authorities. She highlights the landmark judgment of the Constitutional Court in which it recognized the particular risks of sexual exploitation of Venezuelan migrant and refugee women in irregular situations and the positive obligation of the State to identify victims or potential victims and to provide unconditional assistance independently of any criminal investigation or prosecution.<sup>36</sup> In other significant judgments, the Constitutional Court had confirmed the unconditionality of long-term assistance measures<sup>37</sup> and has confirmed the human rights violations of domestic servitude, expanded the scope of reparations beyond compensation and confirmed the right to reparations independent of the outcome of criminal investigations.<sup>38</sup> However, information received indicates that Constitutional Court judgments are not implemented in practice, leaving victims, in particular migrant women and girls in irregular situations, at great risk. Concerns were raised at the continuing security risks faced by victims and witnesses and the limited protection available to them.

## VI. Effective investigations and access to justice

78. By means of its resolution 0261/2022, the Attorney General's Office adopted a strategy on crimes of trafficking in persons to ensure the allocation of sufficient institutional resources. Concerns remain, however, in relation to the effectiveness of trafficking investigations and of the protection of victims and witnesses, and the need to expand the

<sup>34</sup> See <https://bogota.gov.co/servicios/guia-de-tramites-y-servicios/ruta-de-atencion-distrital-contrala-trata-de-personas>.

<sup>35</sup> See [https://www.icbf.gov.co/sites/default/files/documentos-construccion/08.\\_anexo\\_tecnico\\_para\\_la\\_prevencion\\_del\\_reclutamiento\\_uso\\_y\\_utilizacion\\_de\\_adolescentes\\_y\\_jovenes\\_.pdf](https://www.icbf.gov.co/sites/default/files/documentos-construccion/08._anexo_tecnico_para_la_prevencion_del_reclutamiento_uso_y_utilizacion_de_adolescentes_y_jovenes_.pdf).

<sup>36</sup> Constitutional Court of Colombia, Judgment No. 236-21, 23 July 2021, paras. 66–68, 70–76 and 89–92.

<sup>37</sup> Constitutional Court of Colombia, Judgment No. C-470/16, 31 August 2016.

<sup>38</sup> Constitutional Court of Colombia, Judgment No. T-1078/12, 12 December 2012.

territorial capacity of the Attorney General's Office and the Public Prosecutor's Office in areas affected by conflict and violence by criminal organizations. The Special Rapporteur takes note of the ongoing justice sector reform efforts, which require resources and support.

79. The Special Rapporteur notes the extensive training on combating trafficking in persons and effective investigations undertaken by law enforcement authorities, and the commitment to international cooperation to combat trafficking in persons. International cooperation on investigations into trafficking and the provision of assistance to victims, including through bilateral and international agreements, is welcome, although implementation remains challenging in practice.<sup>39</sup>

80. The Special Rapporteur notes the efforts made to undertake effective investigations into trafficking in persons. Such investigations are ongoing, but concerns remain at the continuing impunity for the serious crime of trafficking and serious human rights violations, in particular those involving armed groups and criminal organizations. Offences of trafficking for purposes of sexual exploitation are frequently requalified as prostitution-related offences under the Criminal Code, resulting in limited accountability for trafficking in persons. The majority of investigations currently open relate to trafficking for purposes of sexual exploitation.

81. Significant training on investigating and prosecuting trafficking has been provided by international and regional actors. During the visit, concerns were raised, however, at the limited attention paid in practice to trauma-informed investigations and prosecutions, with continuing risks of the retraumatization of victims. Child-friendly justice procedures have been developed but, in practice, access to justice for children who are victims of trafficking is limited outside of the main urban centres.

82. An overreliance on the testimonies of witnesses and victims in trafficking cases continues to limit the effectiveness of investigations, in particular given the widespread fear of reprisals by armed groups and criminal organizations and limited capacity for witness protection.

83. The Special Rapporteur commends the commitment to strengthening financial investigations into trafficking crimes and enhancing the effective enforcement of money-laundering laws through the Specialized Directorate against Money-Laundering. Strengthened investigations into crimes against public administration (tax evasion crimes), under Act No. 2010 of 2019, are also important in relation to accountability for trafficking in persons.

84. The seizure and confiscation of assets originating from trafficking continue to be challenging, given the strength of criminal organizations and armed groups and allegations of corruption in relation to confiscated assets. The Special Rapporteur welcomes the commitment to programmes to support the social use of assets of illicit origin, with a particular emphasis on reparations for communities historically affected by armed conflict and criminal violence, and highlights the potential of such programmes to benefit communities affected by trafficking in persons.

85. Colombia has ratified the Council of Europe Convention on Cybercrime and continues to strengthen investigations into cybercrime. Given the prevalence of technology-facilitated trafficking, including transnationally, in particular trafficking for purposes of sexual exploitation and trafficking in children, enhanced capacity is essential.

86. The Special Rapporteur highlights the concerns raised in relation to corruption hindering the investigation and prevention of trafficking crimes.

87. The principle of non-punishment of victims of trafficking is essential to the realization of a human rights-based approach, as required by international law. However, concerns were raised during the visit, in the context of exploitation, in particular of adolescents and youth,

<sup>39</sup> See

<http://www.trataytrafico.gob.ec/assets/archivos/biblioteca/acuerdos/MEMORANDO%20DE%20ENTENDIMIENTO%20COLOMBIA-ECUADOR,%202012.pdf>.



for criminal activities, that the non-punishment principle is not implemented as early as possible in investigations, or in judicial proceedings where necessary.

88. With regard to the implementation of the National Comprehensive Programme for the Substitution of Illicit Crops, the Special Rapporteur welcomes the commitment to a human rights-based approach and stresses the obligation of non-punishment of victims of trafficking, in particular, children, who are exploited in criminal activities such as coca production, and highlights the obligations of assistance to and protection of victims of trafficking for purposes of forced labour.

### **Independence of the judiciary**

89. The Special Rapporteur highlights the continuing challenges in ensuring the independence of the judiciary, and its critical role in enhancing accountability for trafficking in persons. Challenges including the potential for high levels of corruption, the lack of independence and threats of violence by criminal organizations and armed groups remain.

## **VII. Peacebuilding and trafficking in persons**

90. The Special Rapporteur highlights the urgency of continuing peacebuilding efforts. Combating trafficking in persons requires a sustainable, durable peace and accountability for conflict-related trafficking, including reparations and effective remedies for victims. The signing of the Peace Agreement was a significant achievement in progress towards peace. Act No. 2272 of 2022 establishes the legal framework for the State policy of total peace and confirms the new human security-centred approach and the commitment to full implementation of the Peace Agreement and dialogue with all armed groups present in the country. She welcomes the commitment to achieving total peace and commends the continuing dialogue, including through the ongoing ceasefires and negotiations between the Government and the Ejército de Liberación Nacional (National Liberation Army).<sup>40</sup>

91. Significantly, the new policy of total peace is a commitment to ensuring the effective participation of women and civil society in the peace process and requires differential approaches on an intersectional and regional basis, placing the needs and interests of victims at the centre of all processes.<sup>41</sup> The Special Rapporteur welcomes this commitment to meaningful participation and to the prioritization of an intersectional response to the impact of the conflict that recognizes the differentiated impact of conflict on women, Afro-Colombian and Indigenous Peoples, and rural and campesino communities.

92. The signing of the agreement on the implementation of the ethnic chapter, on 20 November 2023, and the commitment to implementing at least 60 per cent of the Peace Agreement by 2026 are welcome and necessary measures. The Special Rapporteur notes the commitment of heads of ministries and government entities to reducing gaps between rural and urban areas through effectively incorporating the ethnic approach into comprehensive rural reform, safeguarding the rights of communities and victims, guaranteeing political participation and collective and individual security for ethnic peoples and advancing the gender-related provisions of the Peace Agreement.

93. The Special Rapporteur highlights the strong focus on gender equality in the Peace Agreement and the total peace policy, including in the dialogues with other armed actors. The development of the first action plan for Colombia on women and peace and security, for the implementation of Security Council resolution 1325 (2000), should strengthen the full and timely implementation of the gender-related provisions of the Peace Agreement and of the ceasefire agreements.<sup>42</sup> It is critical that attention is paid to the State's positive obligations to prevent trafficking in women and girls for all purposes of exploitation, including

<sup>40</sup> See <https://petro.presidencia.gov.co/Documents/230706-Decreto-1117-5-julio-2023.pdf>.

<sup>41</sup> [A/HRC/52/25](#), paras. 14 and 15.

<sup>42</sup> See [https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/pbc\\_written\\_advice\\_to\\_the\\_sc\\_on\\_colombia\\_11\\_october\\_2023\\_-\\_approved.pdf](https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/pbc_written_advice_to_the_sc_on_colombia_11_october_2023_-_approved.pdf).

conflict-related trafficking, and for the State to prioritize survivor-centred and survivor-led responses to trafficking in persons.

94. The work of the National Commission on Security Guarantees includes the strengthening of the justice system, the fight against corruption, the requisition of the proceeds of crime and effective investigations and prosecutions. Measures adopted should include investigations, prosecutions for trafficking in persons, reparations for victims and accountability for serious crimes and the human rights violations of trafficking in persons.

## **A. Transitional justice**

95. The Special Rapporteur commends the progress made in the pioneering work of the transitional justice processes and the commitment to the objectives of pursuing truth, justice, reparations and non-recurrence for crimes committed in the armed conflict. She acknowledges the work of the Special Jurisdiction for Peace and highlights the importance of ensuring that transitional justice processes respond to all forms of conflict-related trafficking and the obligation to ensure effective access to remedies, reparations and accountability. Again, it is essential to note that reported violations such as enforced disappearances, abductions, child and forced marriage, forced recruitment, sexual slavery and the recruitment and use of children may constitute forms of trafficking and should be documented as such in accountability processes in order to ensure effective access to reparations and guarantees of non-recurrence for victims.

96. The opening of macro case 11 by the Special Jurisdiction for Peace marks an important step in ensuring accountability for the sexual and gender-based violence that occurred with impunity during the conflict, with devastating consequences and continuing suffering for women, girls and lesbian, gay, bisexual and transexual persons. The case was opened against the background of alarming levels of sexual and gender-based violence, despite the signing of the Peace Agreement. The case is an opportunity for the Special Jurisdiction for Peace to address conflict-related trafficking by FARC-EP and the Colombian security forces for purposes of sexual slavery, sexual exploitation and forced marriage, which affect women and girls in particular.

97. The Special Jurisdiction for Peace has jurisdiction over the recruitment and use of children, which is a form of conflict-related trafficking that, in Colombia, has included the use of children in direct combat and support roles.<sup>43</sup> The recruitment and use of children may overlap with sexual slavery, child marriage and domestic servitude, which affect girls in particular. Other forms of conflict-related trafficking may be linked to the high incidence of kidnapping and enforced disappearances.

98. Continued resourcing and support for the implementation of the recommendations contained in the final report of the Follow-up and Monitoring Committee tasked with verifying the implementation of the recommendations of the Commission for the Clarification of Truth, Coexistence and Non-Repetition and for the work of the Special Jurisdiction for Peace and the Unit for the Search for Persons deemed Missing in the context of and due to the armed conflict will be essential to ensure justice for persons who have been trafficked, and their families.

## **B. Youth, peace and security**

99. The Special Rapporteur highlights the impact of conflict-related trafficking on youth and welcomes the new youth, peace and security strategy adopted by the United Nations Verification Mission in Colombia and the focus on youth, peace and security in its verification tasks, as well as the promotion of youth participation in the implementation of the Peace Agreement and other peacebuilding efforts.<sup>44</sup> The targeting of youth for trafficking for purposes of forced criminality, forced labour, forced marriage, sexual exploitation and

<sup>43</sup> See <https://www.jep.gov.co/macrocasos/caso07.html>.

<sup>44</sup> S/2023/1033, paras. 81 and 82.

sexual slavery is a serious concern and must be addressed by youth-led, survivor-centred responses to ensure effective prevention, protection and accountability.

### **C. Women and peace and security**

100. The Special Rapporteur highlights the importance of integrating anti-trafficking measures into the forthcoming women and peace and security plan and ensuring a human rights-based response that prioritizes the participation and leadership of victims and persons at risk of trafficking for all purposes of exploitation. The inclusion of lesbian, gay, bisexual and transgender persons and gender-diverse persons in the consultative and design process is welcome.<sup>45</sup> To strengthen prevention, it is essential to address poverty, discrimination and structural causes of violence and inequality, while implementing the differential approach to rights.

101. The Special Rapporteur notes that implementation of the more than 100 gender-related provisions in the Peace Agreement continues to face challenges, partly owing to insufficient technical and financial resources. She highlights the concerns of the Special Forum on Gender regarding progress on the gender-related provisions of the comprehensive rural reform and the ethnic chapter of the Peace Agreement.<sup>46</sup>

## **VIII. Role of civil society, human rights defenders and social leaders**

102. During her visit, the Special Rapporteur witnessed the resilience of civil society in providing assistance to victims of trafficking in persons and other human rights violations, despite high levels of violence, killings and intimidation.

103. She welcomes the design of an action plan for the comprehensive programme of safeguards for women leaders and human rights defenders. In August 2022, the Government welcomed the emergency plan for the protection of social leaders, defenders and signatories of the Peace Agreement. Continued action is essential to strengthen the role of civil society by, first and foremost, ensuring their safety. Expanded resources and long-term support for more effective prevention and assistance programmes are essential, including for survivor-led and survivor-centred organizations.

## **IX. Rights of persons with disabilities**

104. The intersections of discrimination on grounds of race, ethnicity, gender and disability status increase the risks of exploitation. Accessible information on anti-trafficking measures, assistance and protection programmes is limited. Concerns persist at the risks of trafficking in children with disabilities for purposes of exploitation in begging and sexual exploitation. Such risks are higher among Indigenous and Afro-Colombian children with disabilities.

105. Access to justice for persons with disabilities who are victims of crime, including trafficking in persons, is limited due to the lack of procedural accommodations and measures to ensure legal capacity. The current justice sector reform programme offers an opportunity to strengthen access to justice for victims with disabilities. The design and implementation of reforms should be led by persons with disabilities.

## **X. Climate change**

106. The Special Rapporteur highlights that climate change and environmental degradation contribute to displacement and to food and economic insecurity, and may increase

<sup>45</sup> See <https://www.unwomen.org/en/news-stories/feature-story/2023/10/how-womens-voices-are-shaping-colombias-path-to-peace>.

<sup>46</sup> S/2023/1033, para. 79.

vulnerability to trafficking in persons, in particular among Afro-Colombian and Indigenous women and women in rural areas. Risks of exploitation are exacerbated by gendered inequalities in land tenure.<sup>47</sup> Loss of livelihoods contributes to increased recruitment by armed groups and criminal organizations, including the recruitment and use of children in illicit activities.

## **XI. Conclusions and recommendations**

107. The Special Rapporteur welcomes the Government's commitment to combating trafficking in persons and ensuring a human rights law-compliant response to trafficking that prioritizes the rights of victims and survivor-centred measures. Achievement of security guarantees, implementation of the Peace Agreement, prevention of trafficking and protection of victims' rights require continued and urgent reinforcement of the State's civilian institutions in order to ensure the effective implementation of the Peace Agreement. She welcomes the progress made in the public policy to dismantle illegal armed groups and criminal organizations, noting their widespread involvement in trafficking in persons for all purposes of exploitation.<sup>48</sup> She highlights the potential involvement of family members and informal community networks in trafficking, which requires increased attention and effective action. Measures to combat trafficking in persons must be incorporated into national development planning and programmes to achieve the Sustainable Development Goals.

**108. In the context of conflict-related trafficking, the Special Rapporteur recommends that the Government:**

(a) **Strengthen measures to implement the ethnic chapter of the Peace Agreement and to prevent conflict-related trafficking, in particular among Afro-Colombian and Indigenous communities;**

(b) **Ensure effective access for victims to reparations, unconditional assistance, including psychosocial and medical assistance, education, training and livelihoods, and compensation, and develop survivor-centred and survivor-led programmes and measures to combat impunity. Such measures should be long term and fully resourced;**

(c) **Fully implement the gender-related provisions of the Peace Agreement, ensuring that anti-trafficking measures are integrated into the women and peace and security action plan;**

(d) **Ensure that, in negotiations with armed groups, a commitment to ending all forms of trafficking in persons, especially women and children, is included in agreements and that trafficking in persons is listed as prohibited conduct in ceasefire protocols;**

(e) **Strengthen measures to protect victims and communities from reprisals by armed groups and criminal organizations;**

(f) **Integrate measures to prevent trafficking in young people into youth, peace and security initiatives.**

**109. Concerning trafficking in migration and displacement, the Special Rapporteur recommends that the Government:**

(a) **Strengthen the capacity of the Inter-Sectoral Commission for Rapid Response to Early Warnings to follow up on and respond effectively to trafficking in persons and ensure effective protection to victims and persons at risk of trafficking;**

<sup>47</sup> See

[https://www.dcaf.ch/sites/default/files/publications/documents/GenderClimateChangeSecurityNexusColombia\\_report\\_SP.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/GenderClimateChangeSecurityNexusColombia_report_SP.pdf); and Javier Cárdenas, Cristal Downing and Junaita Vélez, "Climate-driven recruitment and other conflict dynamics in Colombia" (New York, United Nations University, Centre for Policy Research, 2021).

<sup>48</sup> S/2023/1033, para. 62.

(b) Strengthen the presence, capacity and resourcing of civilian authorities in border zones to prevent trafficking in migrants and refugees and ensure the rights of victims and persons at risk of trafficking to unconditional assistance and protection, including through the provision of safe accommodation and medical, psychosocial and legal assistance;

(c) Ensure, for unaccompanied and separated migrant and refugee children, the timely appointment of guardians and a protective environment, rights-based family reunification and best interests determinations;

(d) Ensure the provision of unconditional assistance and protection measures for persons at risk of trafficking and victims of trafficking in areas affected by migration, in particular areas where there are large numbers of migrants transiting towards the Darién Gap;

(e) Extend access to temporary protection status to Venezuelans arriving irregularly after 31 January 2021 and take measures to reduce administrative delays in registration and ensure effective access to health services for migrants and refugees;

(f) Take measures to combat discrimination towards and stereotyping of migrant and refugee women, and ensure access to livelihoods, education and training.

110. In the context of trafficking in children, the Special Rapporteur recommends that the Government:

(a) Take urgent measures to expand the resources, capacity and presence of the Colombian Family Welfare Institute, in particular in border and conflict-affected areas and rural areas, where there are high risks of trafficking, ensuring the best interests of all children without discrimination;

(b) Strengthen and expand the implementation of community-led measures to prevent trafficking (including recruitment and use) in Indigenous and Afro-Colombian children, ensuring the primacy of the best interests of the child and promoting gender and racial equality and the rights of Indigenous children, including rights to culture;

(c) Ensure the full implementation of the Safe Schools Declaration and strengthen long-term social inclusion and reintegration measures for children affected by armed conflict, including children who are victims of trafficking, by expanding access to education, training and ongoing psychosocial and medical assistance;

(d) Ensure universal birth registration and the rights of all children to a nationality, without discrimination;

(e) Strengthen gender-sensitive, trauma-informed investigations and prosecutions of all forms of trafficking, ensuring child-friendly justice procedures and access to justice for children who are victims of trafficking.

111. In the context of improving assistance and protection measures provided to victims of trafficking, including the right to access effective remedies, the Special Rapporteur recommends that the Government:

(a) Ensure the provision in practice of long-term, unconditional assistance to victims of trafficking, in particular safe accommodation, education, training and access to employment, prioritizing areas affected by conflict, border zones and rural areas;

(b) Ensure the rights of persons with disabilities in all measures to combat trafficking in persons, including through ensuring procedural accommodations, legal capacity, accessibility of information, access to justice and the ending of institutionalization. The inclusion of persons with disabilities and organizations of persons with disabilities in the design and implementation of such measures is essential;

(c) Expand the provision of legal assistance to ensure access to compensation and reparations for trafficking in persons and provide training to prosecutors and the judiciary on securing compensation and reparations;

(d) Ensure long-term, sustainable funding for civil society measures to prevent, assist and protect victims of trafficking for all purposes of exploitation;

(e) Strengthen the capacity of health services to identify and assist victims of trafficking and persons at risk of trafficking through training and awareness-raising programmes and combating discriminatory stereotypes;

(f) Strengthen coordination with anti-trafficking committees at the departmental level and ensure adequate budget allocations to implement prevention, assistance and protection measures.

112. In the context of trafficking for purposes of labour exploitation, the Special Rapporteur recommends that the Government:

(a) Strengthen and accelerate rural reform and the implementation of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas;

(b) Strengthen and expand the resources, capacity and independence of the Labour Inspectorate for the prevention of trafficking in persons for labour exploitation and for the provision of assistance to victims and persons at risk, in particular in high-risk sectors such as mining, agriculture and domestic work;

(c) Fully implement the ILO Domestic Workers Convention, 2011 (No. 189), and take effective measures to prevent trafficking for purposes of domestic servitude and protect the rights of domestic workers;

(d) Continue strengthening the role of trade unions to prevent trafficking in persons and promote partnerships with trade unions to assist victims of trafficking and persons at risk of trafficking for purposes of labour exploitation;

(e) Strengthen measures to prevent trafficking in supply chains and to promote effective due diligence measures in consultation with affected communities, trade unions and civil society, ensuring the rights of workers.

113. In the context of trafficking in persons for purposes of sexual exploitation, the Special Rapporteur recommends that the Government:

(a) Take effective measures to prevent trafficking for purposes of sexual exploitation, including in the tourism industry, strengthen prevention and protection programmes led by victims, combat gendered and racialized stereotypes that contribute to risks of trafficking, promote gender equality and combat discrimination and violence against sex workers, ensuring safe reporting of risks of trafficking and access to unconditional assistance, without discrimination;

(b) Develop measures to prevent trafficking in lesbian, gay, bisexual and transgender persons and gender-diverse persons for purposes of sexual exploitation and develop assistance and protection measures, in consultation with communities of lesbian, gay, bisexual and transgender persons and gender-diverse persons.

114. In terms of effective investigations and strengthening accountability, the Special Rapporteur recommends that the Government:

(a) Take measures to ensure corporate liability for trafficking in persons, strengthen investigations for corporate liability and integrate accountability measures into business and human rights action plans;

(b) Strengthen capacity for effective investigations, including investigations into technology-facilitated trafficking;

(c) Continue to strengthen international cooperation to combat trafficking in persons, ensure assistance to victims and continue to strengthen provision for mutual legal assistance;

(d) Expand programmes on the social use of seized assets of crime to benefit victims and communities affected by trafficking in persons.

115. In the context of the administration of justice, the Special Rapporteur recommends that the Government strengthen measures to ensure the independence of the judiciary, ensuring protection against violence and intimidation by armed groups and criminal organizations involved in trafficking in persons, and take effective measures to combat corruption among all justice sector actors.

116. In the context of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition, continued efforts should be made to ensure accountability for conflict-related trafficking in persons, for all purposes of exploitation, including through truth-recovery measures, prosecutions, reparations, memorialization and guarantees of non-recurrence.

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