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Human Rights Council

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Agenda item 3

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

Resolution adopted by the Human Rights Council*

20/1.

Trafficking in persons, especially women and children: access to effective remedies for trafficked persons and their right to an effective remedy for human rights violations

The Human Rights Council,

Reaffirming all previous resolutions on the problem of trafficking in persons, especially women and children, in particular General Assembly resolutions 63/156 of 18 December 2008 and 64/178 of 18 December 2009, and Human Rights Council resolutions 8/12 of 18 June 2008, 11/3 of 17 June 2009, 14/2 of 23 June 2010 and 17/1 of 6 July 2011, in which the Council extended the mandate of the Special Rapporteur on trafficking in persons, especially women and children,

Recalling the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Reaffirming the principles set forth in relevant human rights instruments and declarations, including the Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto,

Recalling the United Nations Convention against Transnational Organized Crime and the Protocols thereto, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others,

* The resolutions and decisions adopted by the Human Rights Council will be contained in the report of the Council on its twentieth session (A/HRC/20/2), chap. I.

Recalling also the Forced Labour Convention, 1930 (No. 29) and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization, and welcoming the adoption by that Organization of the Domestic Workers Convention, 2011 (No. 189) and of the Domestic Workers Recommendation, 2011 (No. 201),

Taking note of the Recommended Principles and Guidelines on Human Rights and Human Trafficking¹ and the commentary thereon developed by the Office of the United Nations High Commissioner for Human Rights,

Recognizing the concern expressed by the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee against Torture at the persistence of trafficking and the vulnerability of trafficked persons to human rights violations,

Affirming that trafficking in persons violates and impairs the enjoyment of human rights and fundamental freedoms, continues to pose a serious challenge to humanity and requires a concerted international assessment and response and genuine multilateral cooperation among countries of origin, transit and destination for its eradication,

Recognizing that victims of trafficking are often subject to multiple forms of discrimination and violence, including on the grounds of gender, age, disability, ethnicity, culture and religion, as well as national or social origin, and that these forms of discrimination may themselves fuel trafficking in persons,

Recognizing also that women and children without nationality or without birth registration are particularly vulnerable to trafficking in persons,

Noting that some of the demand for sexual exploitation, forced labour and removal of organs is met by trafficking in persons,

Bearing in mind that the right to an effective remedy as enshrined in article 2.3 (a), (b) and (c) of the International Covenant on Civil and Political Rights is a human right of all persons whose human rights have been violated, including trafficked persons, that States have an obligation to respect, protect and fulfil,

Emphasizing that States' responses to trafficking should take fully into account their human rights obligations with the objective of guaranteeing the full enjoyment of human rights of trafficked persons, which includes implementing the right to an effective remedy for trafficked persons whose human rights have been violated,

Emphasizing also that, owing to the interrelated nature of the different components of an effective remedy, States should provide, as appropriate in each individual case, assistance and support aimed at restitution, rehabilitation, compensation and satisfaction, and guarantees of non-repetition,

Emphasizing further that policies and programmes for rehabilitation, access to justice and compensation should be developed through a gender- and age-sensitive, comprehensive and multidisciplinary approach, with concern for the security of the victims and respect for the full enjoyment of their human rights, and with the involvement of all relevant actors, taking into account the specific protection needs of trafficked persons in countries of origin, transit and destination,

Welcoming in particular the efforts of States, United Nations bodies and agencies and intergovernmental and non-governmental organizations to address the problem of trafficking in persons, especially women and children, including the United Nations Global

¹ E/2002/68/Add.1.

Plan of Action to Combat Trafficking, adopted by the General Assembly in its resolution 64/293 of 30 July 2010, the Global Initiative to Fight Human Trafficking, the Working Group on the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, the Inter-Agency Coordination Group against Trafficking in Persons, and the United Nations Task Force on Transnational Organized Crime and Drug Trafficking,

Taking note of the *Global Report on Trafficking in Persons* of the United Nations Office on Drugs and Crime and the *Global Report on Forced Labour* of the International Labour Organization,

Taking note with appreciation of the report of the Special Rapporteur on trafficking in persons, especially women and children,²

1. *Reiterates its concern* at:

(a) The high number of persons, especially women and children, who are being trafficked within and between regions and States;

(b) The increasing activities of transnational and national organized crime groups and others who profit from trafficking in persons, especially women and children, without regard for dangerous and inhumane conditions, in flagrant violation of domestic laws and international law and contrary to international standards;

(c) The use of new information technologies, including the Internet, for the purposes of exploitation that constitute trafficking, such as for trafficking in women for forced marriages, for forced labour and services and for exploitation in sex tourism, as well as trafficking in children for, inter alia, child pornography, paedophilia, forced labour and services, and any other form of exploitation of children;

(d) The high level of impunity enjoyed by traffickers and their accomplices and the denial of rights and justice to victims of trafficking;

(e) The lack of effective remedies for trafficked persons globally, including the possibility of obtaining compensation for damage suffered;

2. *Encourages* States to refer to the Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the Office of the United Nations High Commissioner for Human Rights¹ as a useful tool in integrating a human rights-based approach into their responses to provide a full range of effective remedies to trafficked persons and, in the case of trafficked children, to uphold, at a minimum, the general principles of the Convention on the Rights of the Child;

3. *Urges* States to recognize trafficked persons as victims with specific protection needs from the moment they are trafficked, and to ensure the promotion, protection and fulfilment of their human rights, including the right to an effective remedy for breaches of these rights;

4. *Encourages* States, guided by their human rights obligations and with a view to respect, protect and fulfil the human rights of trafficked persons, including their right to an effective remedy for human rights violations, to implement the following measures, inter alia:

(a) Ensuring that, in order to most effectively protect victims and bring their abusers to justice, national laws criminalize all forms of trafficking in persons in accordance with the provisions of the Protocol to Prevent, Suppress and Punish Trafficking

² A/HRC/17/35.

in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, regardless of whether the offence is transnational in nature or involves organized crime;

(b) Ensuring adequate procedures are in place to enable rapid and accurate identification of trafficked persons with their consent, regardless of whether the offence is transnational in nature or involves organized crime;

(c) Providing trafficked persons with appropriate, relevant and understandable information on their rights, including the right to a remedy, the mechanisms and procedures available to exercise these rights, and on how and where to obtain legal and other necessary assistance by, inter alia, developing guidelines and ensuring that such guidelines are properly applied;

(d) Providing victims of trafficking with a recovery and/or reflection period to adequately recover and escape the influence of traffickers and/or to make an informed decision on cooperating with the competent authorities, during which time trafficked persons should not be subject to an expulsion order;

(e) Facilitating legal assistance for trafficked persons so that they may exercise their right to an effective remedy, and ensuring that lawyers providing such assistance have received adequate training in the rights of trafficked persons, including children, and in effective communication with victims of trafficking;

(f) Ensuring that trafficked persons are provided with appropriate protection for their privacy and safety when taking part in legal proceedings;

(g) Reviewing eligibility criteria that might have the effect of preventing trafficked persons from seeking compensation, such as nationality and residence requirements where State-funded compensation schemes for victims of crime exist;

(h) Issuing a renewable residence permit to victims of trafficking, without prejudice to the right to seek and enjoy asylum, when the competent authority considers that their stay is necessary for the purpose of their cooperation with the competent authorities in investigations or criminal proceedings;

(i) Providing and/or intensifying training, including human rights education and training, for relevant authorities and officials, such as police, border guards, consular officers and labour inspectors, as well as immigration officials, in the identification of trafficked persons to allow rapid and accurate identification of trafficked persons with their consent, and training for the judiciary, prosecutors and lawyers on laws and issues pertaining to the rights of trafficking in persons and relevant legal procedures, and by adopting system-wide approaches, including case management support and multidisciplinary teams in countries of both destination and origin;

(j) Training law enforcement officials in identifying, tracing, freezing and confiscating assets connected to the crime of trafficking and, with full respect for the budgetary competences of Member States, ensuring that their domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damages suffered;

(k) Ensuring that the best interest of the child is a primary consideration in all decisions or actions that affect trafficked children, whether made by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, in particular by respecting the right of trafficked children to be heard and to express their views freely in all matters affecting them, and to give due consideration to these views in accordance with their age and maturity;

(l) Ensuring that trafficked children are equipped with information on all matters affecting their interests, including their situation and the legal options, entitlements and services available to them, and processes of family reunification or repatriation, and to ensure that trafficked children have access to legal, interpretative and other necessary assistance provided by professionals trained in child rights and in communicating with trafficked children;

5. *Calls upon* States to consider signing and ratifying, as a matter of priority, in the case of Governments that have not yet done so, and for States parties to implement relevant United Nations legal instruments, such as the United Nations Convention against Transnational Organized Crime and the Protocols thereto, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and to take immediate steps to incorporate provisions of the Protocol into domestic legal systems;

6. *Urges* States and requests United Nations funds, agencies and programmes, and other relevant international, regional and subregional organizations within their respective mandates, to continue to contribute to the full and effective implementation of the Global Plan of Action to Combat Trafficking in Persons;

7. *Urges* States, regional and subregional organizations to develop collective regional strategies and plans of action to combat trafficking in persons;

8. *Requests* the Office of the High Commissioner to organize, in close cooperation with the Special Rapporteur on trafficking in persons, especially women and children, consultations with States, regional intergovernmental bodies and organizations and civil society on the draft basic principles on the right to effective remedy for trafficked persons, and to submit a summary thereon to the Human Rights Council at its twenty-sixth session;

9. *Invites* States and other interested parties to make further voluntary contributions to the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, Especially Women and Children, and the United Nations Trust Fund on Contemporary Forms of Slavery;

10. *Calls upon* all States to continue to cooperate with the Special Rapporteur on trafficking in persons, especially women and children, and to consider responding favourably to the mandate holder's requests to visit their countries and to provide all necessary information related to the mandate to enable the mandate holder to fulfil the duties of the mandate effectively, including by giving input to the Special Rapporteur on the draft basic principles on the right to an effective remedy for trafficked persons, annexed to her report submitted to the Human Rights Council;³

11. *Requests* the Office of the High Commissioner to continue and strengthen its activities, including technical assistance and capacity-building, devoted to combating trafficking in persons in coordination with relevant international agencies;

12. *Also requests* the Office of the High Commissioner to promote the Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the Office at the regional and subregional levels;

³ A/HRC/17/35.

13. *Requests* the Secretary-General to provide the Office of the High Commissioner with resources sufficient to fulfil its mandate in relation to combating trafficking in persons, especially women and children;

14. *Decides* to continue consideration of this matter under the same agenda item in accordance with its annual programme of work.

*31st meeting
5 July 2012*

[Adopted without a vote]
