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**Human Rights Council****Forty-third session**

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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****Sale and sexual exploitation of children****Report of the Special Rapporteur on the sale and sexual exploitation of  
children, including child prostitution, child pornography and other  
child sexual abuse material\****Summary*

In her report, the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, provides an overview of her activities since her previous report (A/HRC/40/51). The report also contains reflections on the Special Rapporteur's six-year tenure, an analysis of key challenges, trends and concerns related to the mandate, and recommendations for the way forward.

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



## **I. Introduction**

1. The present report is submitted pursuant to Human Rights Council resolutions 7/13 and 34/16. It contains information on the activities carried out by the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, since her previous report (A/HRC/40/51). It also contains a thematic overview of the main issues of concern to the mandate and recommendations for the way forward, based on the experience of the Special Rapporteur during her six-year tenure.

## **II. Activities**

### **A. Country visits**

2. Since her previous report to the Human Rights Council, in March 2019, the Special Rapporteur has undertaken visits to Bulgaria, from 1 to 8 April 2019, and the Gambia, from 21 to 29 October 2019. The conclusions and recommendations of her visit to the Gambia will be presented to the Council at its forty-sixth session, in March 2021. The Special Rapporteur is grateful to the Government of Paraguay for agreeing to her request to visit in February 2020. She regrets that, due to unforeseen circumstances, she had to ask the Government to reschedule the visit to the second half of 2020.

### **B. Other activities**

#### **1. Conferences and engagement with stakeholders**

3. On 21 September 2019, the Special Rapporteur attended and contributed to a symposium on children's rights in the age of biotechnology, organized jointly by the International Institute for the Rights of the Child and International Social Service in collaboration with the Committee on the Rights of the Child.

4. On 26 September, the Special Rapporteur contributed as a keynote speaker at the launch of the guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/156).

5. On 8 October, the Special Rapporteur presented a report to the General Assembly on safeguards for the protection of the rights of the children born from surrogacy arrangements (see A/74/162).

6. On 14 and 15 November, she participated in a conference entitled "Promoting digital child dignity from concept to action", organized by the Child Dignity Alliance, the Pontifical Academy of Social Sciences and the Interfaith Alliance for Safer Communities and held in the Vatican City.

7. On 20 November, she delivered a statement at the high-level meeting of the General Assembly on the thirtieth anniversary of the adoption of the Convention on the Rights of the Child, held in New York.

8. On 22 November, she contributed to the session on child rights in sport at the Sporting Chance Forum, held in Geneva. Ahead of the Forum, the Special Rapporteur released a user-friendly version of her 2018 report to the Council, entitled "Playing it safe".

9. On 29 November, the Special Rapporteur conducted a working visit to Ireland, where she delivered a keynote speech at the Irish Centre for Human Rights and met with the President of Ireland.

10. On 11 and 12 December, the Special Rapporteur and the Special Representative of the Secretary-General on Violence against Children addressed WePROTECT Global Alliance summit on tackling online child sexual exploitation, held in Addis Ababa.

## 2. Communications

11. A summary of communications sent and replies received appears in the communications report of special procedures (A/HRC/42/65).

### III. Reflections on a six-year tenure

#### A. Objective and methodology

12. Pursuant to Human Rights Council Resolution 7/13, the Special Rapporteur has dedicated her final thematic report to the Council, at its forty-third session, to taking stock of the achievements of the multi-stakeholder child rights global constituency – comprising Member States, national human rights institutions, civil society organizations, United Nations agencies, international and regional human rights mechanisms and private entities – in preventing and eliminating the scourge of the sale and sexual exploitation of children, and the challenges that lie ahead in addressing this complex phenomenon.

13. The Special Rapporteur's first report to the Human Rights Council upon assuming the mandate, at its twenty-eighth session (A/HRC/28/56), coincided with the twenty-fifth anniversary of the establishment of the mandate in 1990. The end of her six-year tenure coincides with the thirtieth anniversary of the mandate: 30 years after its creation, the mandate appears to be as relevant and necessary as ever. Since 1990, significant changes have occurred in the world, impacting the extent and nature of the sale and sexual exploitation of children. Although numerous efforts have been undertaken to address the scourge of these crimes, serious protection gaps remain.

14. The Special Rapporteur prepared this report as an overview of the main issues of concern and emerging trends related to the sale and sexual exploitation of children, their root causes and new manifestations identified in the course of her six-year tenure. In the context of the thirtieth anniversary of the Convention on the Rights of the Child, the twentieth anniversary of the Optional Protocol and efforts to achieve the Sustainable Development Goals, this document rises to the occasion in reflecting on the relevance, complementarity, coherence and impact of existing interventions to combat and eradicate the sale and sexual exploitation of children. It also provides an opportunity to reflect on the ways and means to enhance the impact of the mandate to eradicate the sale and sexual exploitation of children, and identify good practices and recommendations to effectively mitigate, prevent and protect children from this scourge.

15. To inform her report, the Special Rapporteur sought input from a wide range of stakeholders, including members of the Council, national human rights institutions, civil society organizations, United Nations agencies and regional organizations. She held two sets of public and expert group consultations focusing on the key issues of concern to the mandate, the lessons learned and recommendations for the way forward.<sup>1</sup> She has also drawn on her experience from country visits and information gathered through literature review. The Special Rapporteur wishes to thank all of the stakeholders who responded to her call for submissions,<sup>2</sup> and welcomes the engagement demonstrated through this exercise.

#### B. Overview of the issues and trends relating to the mandate: the scope of the sale and sexual exploitation of children

16. The real magnitude of the problem of the sale and sexual exploitation of children is generally unknown, due to the unavailability of centralized and disaggregated data on the different forms of these crimes and on the number of cases identified, investigated and prosecuted. The inadequacy of existing legislation that lacks clarity on relevant offences,

<sup>1</sup> The Special Rapporteur is grateful to the United Nations Children's Fund (UNICEF) Innocenti Office of Research for organizing and hosting a two-day expert consultation in Florence on 24 and 25 September 2019 (see UNICEF Innocenti Office of Research, "UN Special Rapporteur holds expert consultation on prevention of the sale and sexual exploitation of children", 24 September 2019).

<sup>2</sup> See [www.ohchr.org/Documents/Issues/Children/SR/Call\\_for\\_inputs\\_SR\\_children.docx](http://www.ohchr.org/Documents/Issues/Children/SR/Call_for_inputs_SR_children.docx).

the absence of adequate reporting mechanisms and the deeply embedded culture of silence, shame and stigma surrounding child sexual abuse and commercial sexual exploitation are inhibiting the reporting of cases.

17. According to anecdotal evidence, child sexual exploitation, including sexual abuse within the inner circle of trust, and the use of children in prostitution are a reality in all parts of the world. These crimes appear to be most prevalent against marginalized children struck by poverty, conflict, social exclusion and discrimination; children on move; children with disabilities; children living in residential care; and children left behind by their parents.

18. Global developments such as the fast-paced expansion of information and communications technology (ICT), migration flows, natural disasters, conflicts, climate-related changes and increasing recourse to assisted reproductive technology, combined with the harmful attitudes and social tolerance, further facilitate the conditions in which the sexual exploitation of children can thrive.

## 1. Sexual exploitation of children online

19. As laid out in her first report (A/69/262), the link between ICT and the sexual exploitation of children was one of the issues on which the Special Rapporteur focused during her tenure. A significant number of submissions received by the Special Rapporteur in response to her call for input point to the increased use of ICT to facilitate the production, distribution and selling of child sexual abuse material, consumed both online and offline. In 2014, the Special Rapporteur dedicated her first thematic report to this issue (A/HRC/28/56).

20. Five years later, the scale of the problem is alarming yet constantly growing.<sup>3</sup> Children are using the Internet at increasingly younger ages.<sup>4</sup> While ICT has brought many positive aspects to the lives of children, it has also offered the secrecy, anonymity and opacity that facilitate the commission of illegal activities with utter impunity. In 2017, the Internet Watch Foundation identified 78,589 Internet web pages as containing child sexual abuse material.<sup>5</sup> In 2018, the Foundation found an increase of 32 per cent in the number of such sites.<sup>6</sup> In 2019, the International Child Sexual Exploitation database, of the International Criminal Police Organization (INTERPOL), held over 1.5 million images and videos.<sup>7</sup> Studies show an extremely alarming pattern of increasingly younger victims often being subjected to severe abuse, with 28 per cent of the victims younger than 10 years old.<sup>8</sup>

21. A variety of tools, such as live streaming services, encrypted communication systems and peer-to-peer platforms, and anonymous payment applications are used by perpetrators to create safe spaces for themselves online, share child sexual abuse material and communicate with each other and with victims with anonymity.<sup>9</sup> Technical experts warn about the growing use of sites that are purposefully hidden and can only be accessed through virtual private networks and peer-to-peer file-sharing networks.<sup>10</sup> This considerably reduces the capacity of law enforcement to identify those at the origin of the production and dissemination of harmful material stored and shared online.<sup>11</sup> Offenders, traffickers and criminal groups use Internet tools, such as social media, to identify child victims more

<sup>3</sup> See [www.missingkids.com/ourwork/ncmecdata](http://www.missingkids.com/ourwork/ncmecdata) and [www.inhope.org/EN/the-facts](http://www.inhope.org/EN/the-facts).

<sup>4</sup> UNICEF, *The State of the World's Children 2017: Children in a Digital World* (New York, 2017), p. 1.

<sup>5</sup> Internet Watch Foundation, *Annual Report 2017* (Cambridge, United Kingdom, 2018), p. 15.

<sup>6</sup> Internet Watch Foundation, *Annual Report 2018: Once upon a Year* (Cambridge, United Kingdom, 2019), p. 26.

<sup>7</sup> See [www.interpol.int/Crimes/Crimes-against-children/International-Child-Sexual-Exploitation-database](http://www.interpol.int/Crimes/Crimes-against-children/International-Child-Sexual-Exploitation-database).

<sup>8</sup> Internet Watch Foundation, "IWF research on child sex abuse live-streaming reveals 98% of victims are 13 or under", 15 May 2018.

<sup>9</sup> See the submission from Foundation ECPAT International. All submissions are available at [www.ohchr.org/EN/Issues/Children/Pages/Submissionreceived.aspx](http://www.ohchr.org/EN/Issues/Children/Pages/Submissionreceived.aspx).

<sup>10</sup> Centre for the Analysis of Social Media, "Online child sexual abuse imagery", Technology Briefing Series, No. 1, 22 January 2018.

<sup>11</sup> Gabriel J.X. Dance, "Fighting the good fight against online child sexual abuse", *New York Times*, 23 December 2019.

easily and establish relationships, subsequently intimidating them into exploitative situations.

22. Children continue to be sold and trafficked for the purposes of live streaming of sexual abuse (see CRC/C/156, paras. 2 and 87). There are multiple reports about offenders, based in various countries, logging onto the video feed and participating in the crime by directing those present in the room on how to abuse the child.<sup>12</sup> Live streaming, facilitated by the increased speed of Internet connections, complicates police efforts to gather evidence and detect these crimes, since downloading of files is not required.

23. Children are also used in pornographic performances. This type of sexual exploitation online appears to be perceived in some communities as less harmful, due to lack of physical contact between the perpetrators and children. In some instances, parents, driven by economic hardship, are involved in perpetrating the crime.<sup>13</sup> In many cases, children are recruited or coerced into participation in pornographic performances or other acts online as a result of economic vulnerabilities, peer pressure or manipulation by perpetrators.

24. Some States continue to prosecute children who find themselves in such situations, despite clear guidance from the Committee on the Rights of the Child that children exploited in acts that would constitute an offence under the Optional Protocol should never be criminalized. As stated by the Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee), responses to this phenomenon must keep children's rights in focus, with victims being provided with support services and not subjected to criminal prosecution.<sup>14</sup>

25. In the context of the increasing tendency among children to share sexually explicit images or videos with each other, it is critical to distinguish images that are taken and shared voluntarily from those shared under pressure or in abusive situations. Children today take sexualized images to explore and express their sexuality. This carries high risks of further abuse. Research conducted by the Internet Watch Foundation found that the number of images of 11- to 15-year-old children has increased from 30 per cent in 2015 to 45 per cent in 2016, suggesting a connection with an increase in self-generated material shared online.<sup>15</sup> The challenge ahead is to teach children how to explore their sexuality in a manner that keeps them safe. This is extremely important given that the majority of the imagery depicting evidence of abuse is downloaded from the original location by perpetrators, redistributed on third-party websites and further downloaded, shared and uploaded, resulting in repeated revictimization of children.<sup>16</sup>

26. Grooming is another form of exploitation facilitated by ICT, including through social media platforms and online games, which involves conditioning the child to ensure that he or she acquiesces to sexual contact. As more people gain access to webcams and mobile phone cameras, it becomes easier at a practical level for perpetrators to convince children to share sexualized images. These images are often used to coerce or threaten the child into meeting in real life, resulting in sexual or physical abuse in offline situations (A/HRC/40/51/Add.3, para. 21).

27. The INTERPOL International Child Sexual Exploitation database had registered around 20,000 identified child victims as of November 2019. The database captures only a fraction of the sexual abuse and exploitation that children suffer daily. The experience of law enforcement agencies and child protection experts suggests that the great majority of crimes are not reported.

<sup>12</sup> Foundation ECPAT International and INTERPOL, *Towards a Global Indicator on Unidentified Victims in Child Sexual Exploitation Material: Technical Report* (Foundation ECPAT International, Bangkok, 2018), p. 14.

<sup>13</sup> Andy Brown, "Safe from harm: tackling webcam child sexual abuse in the Philippines", UNICEF, 3 June 2016.

<sup>14</sup> Lanzarote Committee, opinion on child sexually suggestive or explicit images and/or videos generated, shared and received by children, 6 June 2019.

<sup>15</sup> Internet Watch Foundation, *IWF Annual Report 2016* (Cambridge, United Kingdom, 2019), p. 9.

<sup>16</sup> *Ibid.*, p. 55.

28. Examples of investigations carried out by law enforcement agencies demonstrate that transnational collaboration brings more effective results.<sup>17</sup> However, such operations entail dedicated and trained police forces, with adequate technical capacity to monitor the encrypted paedophile networks, lawfully access retained IP addresses to secure evidence, and engage with the private sector, overseas operating companies and foreign enforcement agencies.<sup>18</sup> This requires proper legislation and adequate allocation of budgets.

29. Given the scale and complexity of the challenge, it is impossible for law enforcement agencies to tackle the problem single-handedly.<sup>19</sup> Prevention must be prioritized, including through education programmes and awareness-raising campaigns targeting children and families inside and outside school settings. Children from all backgrounds should receive access to protection tools, software, and concrete information on how to identify abuse and report crimes and where to receive assistance. Children's perspectives about how digital platforms can help them be safe and resilient should be included in prevention strategies.

30. The Special Rapporteur has repeatedly mentioned the danger of sexually exploitative virtual representations of children in subgenres of manga, anime, computer graphics and video and online games that contain depictions of extreme child abuse material (A/HRC/31/58/Add.1, paras. 22, 23 and 67). Despite the toughening of legislation in some countries, this type of child abuse material can still be accessed and purchased online.

31. While some private sector stakeholders have taken the initiative to include child online protection in their standard operating procedures, most small and medium-sized companies are not yet aware of their negative impact on the lives of children or choose to ignore it. Effective accountability of private industry should be overseen by Governments (see A/HRC/17/31, annex). This should be supported through national legal provisions obliging companies to develop and implement mechanisms to detect, report and block child sexual exploitation material, and enforce proper codes of conduct and minimum standards.<sup>20</sup> Children's rights should be built into their business models and include a safety-by-design approach.

32. Regulation should further ensure that competent national authorities can access the data and evidence necessary under due process to ensure effective investigations and prosecutions of online crimes so as to guarantee the protection of children. This process must be guided by international human rights law and principles related to the rights to freedom of expression and access to information.<sup>21</sup>

33. It is important to emphasize that ICT can serve as an essential element of successful prevention and response strategies, supporting efforts of law enforcement agencies and non-governmental organizations. Where domestic laws have not yet caught up with international standards, private sector stakeholders have an opportunity to bring their practices in line with these standards and promote innovative solutions and positive change.<sup>22</sup> The INTERPOL "Worst of" list and, in the United States of America, the CyberTipline, managed by the National Center for Missing and Exploited Children, are examples of how such collaboration can help address child sexual abuse material more effectively.<sup>23</sup>

34. The Special Rapporteur welcomes all collaborative efforts, institutionalized at the national and global levels. The WePROTECT Global Alliance's *Global Threat Assessment*

<sup>17</sup> See the submission from the European Union.

<sup>18</sup> INTERPOL, "Safeguarding children from harm: a priority for global experts", 14 November 2019.

<sup>19</sup> See the submissions from Latvia and the United Arab Emirates.

<sup>20</sup> An example of voluntary principles developed jointly by Governments and private sector stakeholders was presented during the WePROTECT Global Alliance summit in 2019. See Australia, Ministry for Home Affairs, "Address at the Global Summit to tackle online child sexual exploitation, Addis Ababa, Ethiopia", 12 December 2019.

<sup>21</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), "'Let's connect for a safe, empowering and inclusive Internet': Safer Internet Day", 10 February 2015.

<sup>22</sup> Thorn is an example of an initiative aiming to achieve these goals ([www.thorn.org](http://www.thorn.org)).

<sup>23</sup> See [www.interpol.int/Crimes/Crimes-against-children/Blocking-and-categorizing-content](http://www.interpol.int/Crimes/Crimes-against-children/Blocking-and-categorizing-content) and [www.missingkids.org/gethelpnow/cybertipline](http://www.missingkids.org/gethelpnow/cybertipline).

2019 and Model National Response serve as guidance and support for national efforts to end violence against children.<sup>24</sup> She notes, however, that technology-facilitated violence often co-occurs with other forms of violence and human rights violations that children experience in their daily life.<sup>25</sup> While specialized responses are necessary to approach online violence as a distinct phenomenon, it should not distract from addressing the problem of sale and sexual exploitation in a comprehensive manner, embedded in holistic child protection strategies.

## 2. Sexual exploitation of children in or for prostitution

35. Children worldwide continue to be sold and trafficked, within their own countries and across borders, for the purposes of sexual exploitation, including prostitution and the production of child sexual abuse material. Poverty, conflict, migration, homelessness, discrimination, exclusion and disability are among the factors that increase children's vulnerability to these crimes. Young girls and boys are lured with false promises of legal work and subsequently coerced into the commercial sex trade in foreign countries. In many cases, children are exploited through a combination of sexual and labour exploitation, including domestic servitude, forced labour, begging and forced marriage.

36. Social media applications are reportedly used to facilitate the sale of and trafficking in children,<sup>26</sup> and it is extremely difficult to detect them as victims are often isolated and cannot report crimes.

37. In 2016, the International Labour Organization (ILO) estimated that 1 million children were subjected to commercial sexual exploitation.<sup>27</sup> The United Nations Office on Drugs and Crime (UNODC) reported that 28 per cent of trafficking victims worldwide detected in 2016 were children.<sup>28</sup> Furthermore, 72 per cent of all girls and 23 per cent of all boys were trafficked for the purposes of sexual exploitation. Given the lack of comprehensive data at the national levels and taking into account the hidden nature of these crimes, the real scale of the problem is likely underestimated.

38. The Special Rapporteur notes progress made with regard to legislative and policy measures focused on the prevention of trafficking in human beings, including children, and the overall improvement of capacity to detect these crimes by law enforcement agencies in some States. However, due to the lack of age- and gender-appropriate identification and referral mechanisms, often child victims of trafficking for sale and sexual exploitation are easily overlooked and are subject to "repatriation" as illegal immigrants.<sup>29</sup> Those who are not returned often lack integration support and prospects for the future, which puts them at a higher risk of exploitation.

39. Furthermore, corruption, limited human and technical resources of law enforcement agencies, the absence of trained social workers and adequate child protection services, and the shortage of child-sensitive justice systems are highlighted by various stakeholders as persistent barriers to effective investigation and prosecution of these crimes.

## 3. Sexual exploitation of children in the context of travel and tourism

40. The issue of the sexual exploitation of children in the context of travel and tourism was examined in a 2013 report of the Special Rapporteur as an emerging trend (A/HRC/22/54). With further growth of the tourist industry, increasing demand keeps fuelling these crimes. The situation is further exacerbated by the expansion of ICT used by criminal networks as an advertising platform. The sale and sexual exploitation of children in the context of travel and tourism has become a form of income-generating activity in

<sup>24</sup> WePROTECT Global Alliance, *Global Threat Assessment 2019: Working Together to End the Sexual Exploitation of Children Online* (National Archives, London, 2019); and WePROTECT Global Alliance, "Preventing and tackling child sexual exploitation and abuse (CSEA): a model national response", November 2016 (available at [www.weprotect.org/the-model-national-response](http://www.weprotect.org/the-model-national-response)).

<sup>25</sup> See the submission from the UNICEF Innocenti Office of Research.

<sup>26</sup> United Nations Office on Drugs and Crime (UNODC), *Study on the Effects of New Information Technologies on the Abuse and Exploitation of Children* (Vienna, 2015), p. x.

<sup>27</sup> ILO, *Global Estimates of Child Labour: Results and Trends, 2012–2016* (Geneva, 2017), p. 13.

<sup>28</sup> UNODC, "Almost a third of trafficking victims are children: UNODC report", 21 December 2016.

<sup>29</sup> See the submission from ECPAT UK.

some vulnerable communities.<sup>30</sup> The majority of the victims are migrating children, children from economically disadvantaged backgrounds, street children and children subjected to other forms of exclusion.

41. The Special Rapporteur notes the recent progress made with regard to launching awareness-raising campaigns, supporting community-based protection systems,<sup>31</sup> and criminalizing these activities in multiple national legal systems. She welcomes the adoption by the World Tourism Organization in 2019 of the Framework Convention on Tourism Ethics as an important step in combating the exploitation of children in travel and tourism and urges all States to expedite its ratification. In addition to complementing international human rights standards on the rights of the child, the Framework Convention will support the realization of the targets of the Sustainable Development Goals on promoting sustainable tourism and ending all forms of violence against children.

42. The Special Rapporteur observed during her country visits that the number of convictions for travelling child sex offenders remains alarmingly low. It is therefore important to put emphasis on enforcement of all laws that protect children from sale and sexual exploitation. More robust awareness-raising activities targeting vulnerable communities, the tourism industry and employment agencies are also needed to tackle impunity and reach out to victims.

#### **4. Sale and sexual exploitation of children in the context of sports**

43. Intrinsically linked to the sexual exploitation of children in travel and tourism is their exploitation in the context of sports and major sporting events (see A/HRC/40/51). The power dynamics and the lack of independent oversight inherent to the sporting industry render children particularly vulnerable to sexual exploitation, including in situations such as the locker room, the playing field, trips away, the coach's home or social events. Other human rights violations include the trafficking of young players between clubs and child labour, in particular during the build-up to major sporting events. In 2016, the European Commission estimated that between 2 and 8 per cent of athletes, both minors and young adults, had been victims of sexual assault in the context of sports.<sup>32</sup> Increased awareness about these phenomena has been made possible due to the courage of children to speak out about the abuses that they have suffered. However, the fear of being publicly identified, shamed, disbelieved or blamed keeps the majority of victims silent. Many are simply not able to recognise abusive relationships.

44. There is a plethora of standards, regulations, policies and codes of conduct dealing with the rights of the child in the context of sports (A/HRC/40/51, paras. 36–50). Nonetheless, different approaches are followed and there is no standard use of terminology. This leads to inconsistencies and may weaken protection.

45. The Special Rapporteur notes efforts by various stakeholders, including sporting federations and associations, to promote the implementation of child protection safeguarding instruments.<sup>33</sup> Nonetheless, much more needs to be done to ensure access to justice and comprehensive care, recovery and reintegration services for the victims. In line with the Guiding Principles on Business and Human Rights (A/HRC/17/31, annex), proper measures should be put in place by sports organizations to prevent, investigate, punish and redress abuses.

#### **5. Sale and sexual exploitation of children in the context of peacekeeping**

46. Lack of accountability in instances of sexual exploitation of children in peacekeeping operations and humanitarian action has also been raised by the Special Rapporteur (A/72/164, para. 84). Following a 2016 report of the External Independent

<sup>30</sup> See the submissions from Mexico and the Commission on Human Rights of the Philippines.

<sup>31</sup> OHCHR, "End-of-mission statement of the UN Special Rapporteur on the sale and sexual exploitation of children, Maud de Boer-Buquicchio, on her visit to the Gambia (21–29 October 2019)", 29 October 2019.

<sup>32</sup> European Commission, Expert Group on Governance, "Recommendations on the protection of young athletes and safeguarding children's rights in sport: final document", July 2016.

<sup>33</sup> For an example of such efforts, see [www.coe.int/en/web/children/2019-edition](http://www.coe.int/en/web/children/2019-edition).

Review Panel of the United Nations response to allegations of sexual exploitation and abuse in the Central African Republic (A/71/99), the Secretary-General outlined a series of measures focused on the investigation and prosecution of these crimes and recovery of the victims (A/71/818 and Corr.1).

47. This was a positive signal. However, much more needs to be done to address the problem effectively. Members of armed forces stationed abroad continue to fuel demand for prostitution, resulting in a significant number of children being sexually exploited and abused. Furthermore, military personnel who are preferential offenders reportedly continue to take advantage of their position to sexually exploit children.

48. In 2019, the Secretary-General reported that the number of cases in United Nations peacekeeping and special political missions had decreased, with 54 allegations reported in 2018, 62 in 2017, and 104 in 2016. The allegations reported for peacekeeping missions in 2018 were associated with 94 victims, of whom 17 per cent were children (A/73/744, para. 70). The majority of victims are denied access to justice and reparation. There is also a lack of comprehensive information about specific measures taken to protect child victims and witnesses in these cases.

## 6. Sale of children: child marriage

49. Despite the decreasing trend worldwide, the prevalence of child marriage remains high, with approximately one in five young women in the world today who were married as children.<sup>34</sup> No region is on track to meet target 5.3 of the Sustainable Development Goals, on eliminating this harmful practice by 2030.<sup>35</sup> Anecdotally, social media and other online applications further enable criminal networks to trade and traffic young girls as brides on a much larger scale.

50. The negative impact of the practice on children's health, rights and education is undeniable.<sup>36</sup> In addition to serious medical conditions linked to forced sexual relations and early pregnancies, child marriage negatively affects children's future earning capacities as they drop out of school. Estimates for 12 countries in sub-Saharan Africa, where the prevalence of child marriage is the highest in the world, indicate that child marriage is costing these countries billions of dollars in lost earnings and human capital wealth.<sup>37</sup>

51. The Special Rapporteur has emphasized that child marriage may amount to the sale of children for the purpose of forced labour when the marriage agreement includes a transaction in the form of financial payment or in-kind benefits (A/71/261, para. 33).<sup>38</sup> In such transactions, children are treated as commodities and exchanged for goods or money, or to settle debts or disputes. A study has highlighted the dynamics that lead children to be sold for the purpose of forced labour under the cover of marriage.<sup>39</sup> In some cases, such practices may amount to modern forms of slavery (A/74/179, paras. 12–13).

52. Weak legal systems and poor enforcement of laws are a major obstacle to ending child marriage.<sup>40</sup> Several legal and policy bottlenecks further hinder efforts to address this problem in countries with complex legal systems encompassing religious, civil and customary laws.<sup>41</sup> Poverty and lack of access to education are among the main drivers of child marriage. The Special Rapporteur is also alarmed by cases of parents marrying off

<sup>34</sup> UNICEF, "Child marriage: latest trends and future prospects", July 2018.

<sup>35</sup> See [www.unfpa.org/publications/accelerating-and-amplifying-change](http://www.unfpa.org/publications/accelerating-and-amplifying-change).

<sup>36</sup> World Health Organization Regional Office for Europe, "Child marriage – a threat to health", 20 December 2012.

<sup>37</sup> Quentin Wodon and others, *Educating Girls and Ending Child Marriage: A Priority for Africa* (Washington, D.C., World Bank Group, 2018), p. 9.

<sup>38</sup> See also the submission from the Girls Advocacy Alliance.

<sup>39</sup> Foundation ECPAT International, *Thematic Report: Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage* (Bangkok, 2015), p. 44.

<sup>40</sup> See the submission from the secretariat of the Group of Experts on Action against Violence against Women and Domestic Violence ("GREVIO"), the monitoring mechanism under the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

<sup>41</sup> See examples documented by the Special Rapporteur during her country visits: A/HRC/40/51/Add.3, para. 35; A/HRC/25/48/Add.1, para. 26; and OHCHR, "The Gambia must step up prosecutions to boost progress on ending child sexual exploitation, says UN human rights expert", 31 October 2019.

their children in the context of conflict and humanitarian crisis (A/72/164, para. 27). Furthermore, this practice is deeply embedded in patriarchal norms and gender discrimination. The stigma surrounding the topic of sex perpetuates the practice of child marriage as a legitimate way to prevent premarital sex. In parallel, lack of sexual and reproductive health education results in out-of-wedlock pregnancies.

## 7. Sale of children: illegal adoption

53. Another manifestation of the sale of children examined by the Special Rapporteur is related to illegal adoption. In 2017, she devoted her thematic report (A/HRC/34/55) to adoption that occurs through the commission of illegal acts and illicit practices such as abduction, sale, trafficking, lack of proper consent from the biological parents, fraud and improper financial gain. These acts reflect deficiencies in child protection systems. This situation is exploited by criminal networks, often with the involvement of State officials or as the result of permissive State policies. All actors are driven by the lucrative business of illegal adoption, and the impunity for these crimes only serves to fuel this scourge.

54. In 2018, in one its judgments regarding allegations of illegal adoption facilitated by government officials, the Inter-American Court of Human Rights stated unequivocally that illegal adoption was among the “purposes of exploitation” covered by the definition of trafficking in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.<sup>42</sup> The Special Rapporteur had submitted an opinion in this case. Reliable figures regarding the sale of children for the purposes of illegal adoption are difficult to establish owing to the hidden nature of those activities. Furthermore, adoption facilitated through illegal channels can appear legal after “official” adoption papers have been received.

55. In addition to the crimes committed by individuals or criminal networks to secure the adoption of a child, the main issue is the enabling environment for such crimes. This includes poverty, conflict, humanitarian crises, a poorly paid and underresourced civil service, corruption, inadequate social protection systems and alternative care systems relying on privately run residential facilities.

56. Today, weak child protection systems at the national level, including obstructed access to birth registration or legislation facilitating relinquishment or abandonment, further enable criminal networks and intermediaries to facilitate illegal adoption, often with the complicity of government officials. The existence of intercountry adoption from countries of origin that are not party to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993 is also linked to a higher risk of illegal adoption. The lack of accountability and redress for victims of illegal adoption is another problem highlighted by the Special Rapporteur, largely resulting from the lack of comprehensive national legislation criminalizing illegal adoption as a separate offence. Past cases of large-scale illegal adoption continue to affect survivors in a number of countries.

## 8. Surrogacy and the sale of children

57. In two thematic reports (A/HRC/37/60 and A/74/162), the Special Rapporteur raised concerns over modern practices of surrogacy and the sale of children against the backdrop of thriving medical tourism, the international and national regulatory vacuum, and the existing disparity in surrogacy laws and practices. However, the Special Rapporteur emphasizes that nothing in her reports should be interpreted as a restriction of women’s autonomy in decision-making or of their rights to sexual and reproductive health. Further research on surrogacy by other human rights mechanisms is needed, in particular as it is related to women’s rights.

58. The Special Rapporteur has observed that domestic laws prohibiting surrogacy are often sidestepped and States are confronted with surrogacy arrangements carried out abroad, leading to issues surrounding, inter alia, rights to identity, access to origins and the family

<sup>42</sup> Inter-American Court of Human Rights, *Case of Ramírez Escobar et al. v. Guatemala*, Series C No. 351, Judgment, 9 March 2018. For a summary, see [www.ohchr.org/Documents/Issues/Children/Submission/Resumen\\_Ramirez\\_Escobar.pdf](http://www.ohchr.org/Documents/Issues/Children/Submission/Resumen_Ramirez_Escobar.pdf).

environment for the child. In this context, jurisdictions allowing international surrogacy arrangements should verify that intending parents coming from abroad will be able to return to their countries of origin with their surrogate-born child, and that legal parentage will be recognized by the authorities of their country of origin.<sup>43</sup>

59. Furthermore, the Special Rapporteur has raised issues around the lack of comprehensive information about institutional oversight of commercial actors responsible for surrogacy practice. She also raised concerns over the possibility of abusive practices exploiting the economic vulnerabilities of women and girls and the power imbalances with medical professionals and the individuals requesting surrogacy arrangements.

60. While acknowledging the lack of international consensus on how to respond to this practice, the Special Rapporteur is concerned that the international and national regulatory vacuum on surrogacy arrangements often leaves children vulnerable to breaches of their fundamental rights.

## C. Root causes and risk factors of increased vulnerability

### 1. Understanding the root causes and the demand factor

61. The demand factor of the sale and sexual exploitation of children was examined in detail by the Special Rapporteur in her report in 2016 (A/HRC/31/58), with the aim of providing a broad strategy for the eradication of these crimes. Demand encompasses both the individual offenders who pay for sexual services involving children and the social, cultural, gender and institutional constructs that create an atmosphere in which the sexual exploitation of children is ignored, tolerated or even accepted.<sup>44</sup> Demand also sustains and supports the profits of the transnational criminal networks, traffickers and other intermediaries. The Optional Protocol sets out specific obligations of States to prohibit and criminalize these crimes (arts. 1 and 3), and emphasizes the need to raise public awareness to reduce demand. It further calls States to adopt extraterritorial jurisdiction over these crimes in order to deal adequately with the often international nature of demand (arts. 4–7).

62. The profile of offenders responsible for the sexual abuse of children is diverse. The majority do not automatically have a sexual preference for children and can be classified as situational offenders, who often resort to prostitution involving children simply because it is available. This category of offenders may include tourists, business travellers, foreign workers, supporters travelling in the context of major sporting events, volunteers, government employees deployed overseas or expatriates on extended travel or residing abroad.<sup>45</sup>

63. The increased accessibility and availability of child sexual abuse material online appears to normalize this crime and may encourage potential offenders and increase the severity of abuse.<sup>46</sup> This includes new phenomena, such as drawings and virtual representations of non-existing children in a sexualized manner, widely available on the Internet.

64. With regard to preferential offenders, law enforcement experts point out that these individuals have limited or no opportunities to seek assistance before they engage in harmful behaviour and criminal acts, an issue that is often overlooked by States. Existing effective prevention programmes designed to support potential offenders and prevent their engagement in acts of abuse should be scaled up. In general, comprehensive and evidence-based research is needed to better understand the characteristics of offenders. This will likely improve the quality and effectiveness of existing rehabilitation programmes.

65. Ultimately, the essential feature of most offenders is their knowledge or belief that their actions will go unpunished. Demand is also sustained by harmful social norms and practices. It is the responsibility of States to adopt and implement effective strategies based

<sup>43</sup> See the submission from Save the Children Spain.

<sup>44</sup> Foundation ECPAT International, *Power, Impunity and Anonymity: Understanding the Forces Driving the Demand for Sexual Exploitation of Children* (Bangkok, 2016), p. 9.

<sup>45</sup> See the submission from Foundation ECPAT International.

<sup>46</sup> Further information received from the UNICEF Innocenti Office of Research.

on prevention measures, effective accountability mechanisms and evidence- and results-based rehabilitation programmes.

## 2. The impact of harmful social norms and practices

66. Patriarchal structures that promote male sexual domination are a fundamental factor driving the sale and sexual exploitation of girls, who constitute the majority of child victims. Gender stereotypes around masculinity also adversely affect boys, with little attention given to their possible vulnerability to sexual exploitation. While a significant proportion of children depicted in online child sexual abuse material are boys, few States have developed adequate child protection systems to support the rehabilitation and recovery of boys.<sup>47</sup>

67. Gender discrimination is further compounded by the inherent power imbalance between children and adults. Children are often not considered as rights holders and are sometimes even viewed as property. Furthermore, the increasing social acceptance of early sexualization is exacerbated by the widespread dissemination of child sexual abuse material on the Internet and the production of highly realistic representations of non-existing children.<sup>48</sup> This objectification of children comforts offenders in their actions.

68. In addition, racism and discrimination normalize violence against the most vulnerable. Some offenders, in particular in the context of travel and tourism, target children of a different ethnicity because they believe that the local culture condones the sexual exploitation of children. Caste-based systems or similarly entrenched inequities enable the offender to justify the sexual exploitation of children from lower castes or groups. Moreover, many cases of domestic illegal adoption have been committed as a form of discrimination against minorities or indigenous communities. Discrimination based on sexual orientation is also a source of demand, since the sexual exploitation of homosexual or transgender children may be seen in certain contexts as acceptable. Furthermore, disability may constitute a crucial factor that heightens the risk of being subjected to sale and sexual exploitation for girls and boys.

69. The culture of silence surrounding these crimes is even more prevalent in the context of closed communities with inherent imbalance in power dynamics between children and adults, such as faith-based organizations or sports clubs.

70. The Special Rapporteur is concerned that, as also illustrated in several submissions provided by various stakeholders, officials responsible for protecting vulnerable children are often seen as displaying harmful attitudes, including disrespect and disbelief towards the plight of child victims, thus preventing accountability and perpetuating the impunity.<sup>49</sup>

71. The Special Rapporteur in 2014 observed that communities tended to cope with some of the challenges that they faced by increasing their social tolerance of child sexual exploitation, resulting in the normalization and permissibility of the crime (A/HRC/25/48, para. 48). In general, that trend continues today.

## 3. Poverty as driver of sale and sexual exploitation of children

72. Poverty is a major root cause of crimes related to the sale and sexual exploitation of children, and is strongly linked with other factors such as lack of education, inadequate family protection, migration and displacement and living in rural areas or slums.<sup>50</sup> Children from poor families may also be particularly affected by inequality, social exclusion and discrimination.

73. In these circumstances, children are at a greater risk of being sold or trafficked to provide family income. In some cases, parents, driven by poverty and lack of information, sell their children to traffickers, thereby putting them in situations of forced labour, child marriage, prostitution, forced begging or sexual abuse and exploitation facilitated by ICT. Furthermore, children living in orphanages or those working on the streets or placed in

<sup>47</sup> See the submission from ECPAT UK.

<sup>48</sup> ABC, "SA government to support ban on child-like sex dolls", 12 September 2019.

<sup>49</sup> UNICEF, *Knowledge, Attitudes and Practices Survey on Justice for Children in Kazakhstan* (2016) (on file). See also the submission from the Protector of Citizens of Serbia.

<sup>50</sup> See the submissions from Italy, Guatemala, the South African Human Rights Commission and others.

detention facilities are at a higher risk of sale and sexual exploitation. Girls living on the streets are particularly vulnerable and are likely to be arrested for prostitution, exposing them to further risks of sexual abuse.

74. The World Bank estimates that by 2030, countries with a high level of fragility, conflict and violence are expected to be home to 46 per cent of the world's population living in extreme poverty.<sup>51</sup> This poses a major challenge in terms of protecting the most vulnerable children from falling victim to various forms of exploitation.

#### 4. Vulnerability of children on the move and in situations of conflict and humanitarian crisis

75. The vulnerabilities of children to sale, trafficking and other forms of exploitation in situations of conflict and humanitarian crisis were examined in a joint study by the Special Rapporteur with the Special Rapporteur on trafficking in persons, especially women and children (A/72/164).

76. Children as young as 8 years old are recruited as soldiers and used by armed forces and armed groups for the purposes of forced labour, child marriage, sexual exploitation and sexual enslavement (see A/73/907-S/2019/509, para. 18). Conflict-related sexual violence continues to affect children, with accounts documented in the majority of ongoing conflict settings (S/2019/280, para. 18). While girls are more likely to fall victims to sexual exploitation, there are nonetheless cases of boys being abused. Concerns have been raised about the linkages between migration, trafficking and sexual violence, including sexual enslavement, perpetrated by armed and extremist groups.<sup>52</sup>

77. The vulnerability of children to sale and sexual exploitation persists due to the increasingly protracted nature of conflicts, with new conflict dynamics emerging and intensifying. Concerns about widespread disregard for international humanitarian and human rights law, including children's rights, thus continue to persist, leaving children with extremely limited options to receive justice and reparation.

78. The Special Rapporteur has repeatedly emphasized the impact of migration on children's vulnerability to sale and trafficking. The situation of children on the move continues to be driven by traditional economic factors, and increasingly by environmental degradation and climate change. Children including refugees, asylum seekers, returnees, internally displaced children and stateless children are also escaping conflict, persecution or natural disasters.

79. It is important to distinguish between the different contexts of children's migration movements, since they may be entitled to different types of protection mechanisms defined by international law and national legal systems. However, children on the move are first and foremost children. Their migration status is no reason for States to neglect their obligation to protect them from the risks of sale and sexual exploitation.

80. According to the International Organization for Migration (IOM), children represented 14 per cent of all categories of migrants in 2017.<sup>53</sup> As of 2016, around 1 in 80 of the world's children was living in forced displacement: an estimated 28 million children, representing roughly half of the entire refugee population.<sup>54</sup> Nearly four out of every five refugees lived in countries neighbouring their countries of origin.<sup>55</sup>

81. When children are not supported with realistic options for their future in countries close to their place of origin, most of which are low- and middle-income countries, they are more likely to risk dangerous journeys to countries in the global North. The Special Rapporteur is concerned about the large number of children undertaking such journeys

<sup>51</sup> World Bank Group, "Fragility, conflict and violence: overview – helping countries navigate a volatile environment", 10 October 2019.

<sup>52</sup> *Global Report on Trafficking in Persons – in the Context of Armed Conflict 2018* (United Nations publication, Sales No. E.19.IV.2), p. 6.

<sup>53</sup> IOM, *Global Migration Indicators 2018* (Berlin, 2018), p. 19.

<sup>54</sup> UNICEF, *A Call to Action: Protecting Children on the Move Starts with Better Data* (New York, 2018) <https://data.unicef.org/resources/call-action-protecting-children-move-starts-better-data/>.

<sup>55</sup> Office of the United Nations High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018* (Geneva, 2019).

alone. For example, the Office of the United Nations High Commissioner for Refugees reported 138,600 unaccompanied and separated refugee children in 2018.<sup>56</sup> Countries do not always record them separately from children who are present with their families, despite the fact that children who are deprived of parental care or separated from their primary caregiver are considered particularly vulnerable to exploitation and abuse.

82. Migrant and refugee children often move along dangerous migration routes across multiple countries. They are often stranded at borders or at the sea, as is the case with the Mediterranean migration crisis,<sup>57</sup> and refugee movements in South and South-East Asia.<sup>58</sup> They become easy prey for smugglers, criminal groups and other abusers.

83. Moreover, when these children have reached their destination, they encounter a number of further difficulties, such as discrimination, limited or lack of access to basic services and inability to claim their rights. Instead of receiving protection, many are criminalized and placed in detention.<sup>59</sup> Reception centres for migrants and refugees across the world often fail to provide adequate protection for children, and many children go missing from these facilities.<sup>60</sup> Some are subjected to forced marriage, child labour, trafficking for the purposes of sexual exploitation and survival sex, and many are homeless or live on the streets, which further increases their vulnerability to sexual abuse.<sup>61</sup> Others who are placed in detention centres are deprived of access to child protection services and are often subjected to further abuse (see A/74/136, paras. 56–60).

84. Despite the adoption of the Global Compact for Safe, Orderly and Regular Migration,<sup>62</sup> the Special Rapporteur is concerned about the continued failure of States to ensure that all children on the move that are subjected to sale or sexual exploitation are identified and provided with proper rehabilitation and recovery services. These children are often excluded from national child protection systems and are not included in data collection on instances of sale and sexual exploitation. As a result, the number of children affected by these crimes is likely underestimated.

## IV. Progress and existing gaps

### A. Institutional and legal framework

85. As emphasized repeatedly by the Special Rapporteur, effective prevention and response to the various manifestations of the sale and sexual exploitation of children require first and foremost a strong child protection system. The first step is to ensure clear and comprehensive legislation that criminalizes the sexual exploitation and related sale and trafficking of children, recognizes their legal status as victims to access rights and services for their care, recovery and reintegration, and offers child-friendly judicial proceedings and remedies, including compensation.<sup>63</sup>

#### 1. Terminology

86. Terminology used by States to define these crimes and respond with relevant policies must reflect the full scope of risks. This is challenging as the sale of children and child sexual exploitation are becoming increasingly complex and continuously evolving phenomena in the context of global developments. Furthermore, the transnational aspect of these crimes means that States have to use common language when collecting data and exchanging information.

<sup>56</sup> See the submission from UNHCR.

<sup>57</sup> IOM and UNICEF, *Harrowing Journeys: Children and Youth on the Move across the Mediterranean Sea, at Risk of Trafficking and Exploitation* (Geneva and New York, 2017).

<sup>58</sup> UNHCR, “Refugee movements in South-East Asia”, 30 September 2019.

<sup>59</sup> See Manfred Nowak, *The United Nations Global Study on Children Deprived of Liberty*, November 2019, pp. 430–496. For a summary of the findings of the global study, see A/74/136.

<sup>60</sup> See the submission from the Lanzarote Committee.

<sup>61</sup> See the submission from UNHCR.

<sup>62</sup> General Assembly resolution 73/195, annex.

<sup>63</sup> See the submission from the Organization of Islamic Cooperation.

87. The Special Rapporteur welcomes the development of the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse as an important step to support States in their efforts to harmonize and review the relevant legal and policy definitions.<sup>64</sup> The language proposed in the document reduces stigmatization and secondary victimization of children.

## 2. Legislation

88. The adoption on 30 May 2019 by the Committee on the Rights of the Child of the guidelines regarding the implementation of the Optional Protocol is another welcome contribution to providing clarity on a number of legal obligations.<sup>65</sup>

89. One of the issues addressed in the guidelines, and repeatedly emphasized by the Special Rapporteur, is the need to differentiate between the concepts of “sale of children” and “trafficking in children” in national legislation. Many States have legislation prohibiting trafficking in persons, but fail to criminalize the sale of children as a separate crime, or they consider it only as part of the crime of trafficking in children.<sup>66</sup> While the categories frequently overlap, the main difference is that the ultimate aim of the sale of children is to obtain a form of remuneration from the sale. Moreover, the exploitative purpose, which is one of the constituent elements of trafficking, is not required to constitute the crime of sale. The sale of children also lacks the requirement of the physical movement of the child from one place to another, which is a key element of the concept of trafficking. These distinctions are relevant in order to criminalize all illegal activities in this area.

90. The guidelines also remind States that child victims of offences under the Optional Protocol cannot be subjected to sanctions as offenders. Instead, they should receive appropriate support. In this context, the Special Rapporteur is concerned that many States still allow the criminalization of children who are exploited in prostitution or begging or subjected to other crimes of sale and sexual exploitation.

91. Criminalization of the sale and sexual exploitation of children through the use of ICT, including the manifestations highlighted in this report, remains a challenge for many States. The Committee on the Rights of the Child has stated that child sexual abuse material, defined in article 2 of the Optional Protocol as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”, includes a broad range of material available in online and offline situations.

92. In the context of increasing availability of material that contributes to the normalization of child sexual abuse, the Special Rapporteur welcomes the decision of the Supreme Court of Norway in September 2019 that sex dolls mimicking child-like qualities represent the sexualization of children and violate criminal law.<sup>67</sup>

93. Another major problem is the lack of coherent legislative provisions across different countries. This not only sustains impunity, but it also enables perpetrators and undermines transnational police investigations by blocking efforts to identify victims, arrest and prosecute the perpetrators and remove harmful material from the Internet.

94. Among other gaps in national legislation, it is important to highlight statutes of limitations that prevent prosecutions, and the simple fact that criminal investigations cannot be initiated unless on the basis of a complaint by the victim, who is often scared or ashamed to come forward. This fear is then compounded by families that opt to settle the case with the perpetrator. Another cause of concern are the low penalties that are not commensurate

<sup>64</sup> The guidelines were adopted in 2016 by an inter-agency working group that brought together representatives of civil society, regional bodies, specialized agencies, United Nations agencies, human rights mechanisms and academia. See <http://luxembourgguidelines.org>.

<sup>65</sup> OHCHR, “UN Committee launches guidelines on combating child sexual exploitation and the sale of children in the digital age”, 26 September 2019.

<sup>66</sup> CRC/C/OPSC/CZE/CO/1, para. 9; CRC/C/OPSC/GEO/CO/1, para. 10; CRC/C/OPSC/LKA/CO/1, para. 9; CRC/C/OPSC/RUS/CO/1, para. 27; and CRC/C/OPSC/USA/CO/3-4, paras. 8–9.

<sup>67</sup> Norway, Supreme Court, HR-2019-1715-A (case no. 19-78768STR-HRET), Judgment, 10 September 2019. Available (in Norwegian) at [www.domstol.no/globalassets/upload/hret/avgjorelser/2019/september-2019/hr-2019-1715-anonymisert.pdf](http://www.domstol.no/globalassets/upload/hret/avgjorelser/2019/september-2019/hr-2019-1715-anonymisert.pdf).

with the grave nature of offences related to the sale and sexual exploitation of children. Furthermore, very few States criminalize grooming as a stand-alone criminal offence.

## **B. Holistic approach to prevention and response mechanisms**

### **1. Comprehensive child protection strategies, including comprehensive care, recovery and reintegration**

95. In addition to adequate legal frameworks, States must put in place comprehensive, evidence-based child protection systems to effectively address the multiple manifestations of the sale and sexual exploitation of children. Given the complexity and scale of the problem, an overarching policy framework should guide different sectors to ensure coordination between the legal and policy mechanisms.

96. Currently, most existing strategies have been largely driven by fragmented policies and insufficiently coordinated child protection systems. Focusing on one manifestation of the sale and sexual exploitation of children, such as trafficking, can weaken coordination efforts to address other problems.

97. Given the overwhelming scale of these multifaceted phenomena, States can address the problem more effectively by tackling the root causes and risk factors. Efficiency of comprehensive child protection systems at the national level must be further enhanced by supporting collaboration between different sectors, including the private sector, and overseas operating companies and foreign enforcement agencies.

98. With regard to the establishment of comprehensive, rights-based and child-centred care, recovery and reintegration programmes,<sup>68</sup> there is a need to establish holistic child-sensitive support that offers integrated services ranging from immediate medical assistance and psychological support to legal aid and long-term reintegration through, *inter alia*, education, vocational training and life skills. Furthermore, existing child protection systems often lack the required safeguards to prevent system-induced trauma, which deepens the suffering of the victim. Other failures in care and recovery programmes include frequent blaming of child victims and gender discrimination leading to the marginalization of certain child victims, such as boys and lesbian, gay, bisexual, transgender and intersex children.

99. Even though there are numerous positive examples of first response services, there is a significant gap in medium- to long-term care for child victims of sexual exploitation. The importance of appropriate and sustained funding and resourcing of care and recovery programmes cannot be overstated. Of particular interest is the development of life projects for child victims that ensure that they receive individualized plans adapted to their specific needs.

100. Promising practices such as the children's house model (Barnahus) in Iceland have been promoted as a multidisciplinary and multi-agency approach that offers immediate support and a referral mechanism to comprehensive services for the child victims.<sup>69</sup> However, in most cases, care and recovery services provided to child victims suffer from insufficient funding, inadequate staffing, lack of oversight, lack of training and support for the front-line workers, and poor communication and coordination among the various actors. Many children continue to be neglected due to the inadequacy of legal provisions, data collection and the process of identifying and rehabilitating victims of sexual exploitation. Centralized databases for case management are rare, which means that most child victims are neither identified nor linked to services.

101. Recovery programmes focused on developing life projects for child victims are extremely important. The model of individualized care and recovery programmes adapted to children's needs is also fundamental, as it entails the empowerment of the child victim. Regular monitoring and assessment of these programmes are important to ensure that the

<sup>68</sup> See OHCHR, "Care and recovery of child victims". Available at [www.ohchr.org/EN/Issues/Children/Pages/CareAndRecovery.aspx](http://www.ohchr.org/EN/Issues/Children/Pages/CareAndRecovery.aspx).

<sup>69</sup> See the submissions from the Lanzarote Committee and the Special Representative and Coordinator for Combating Trafficking in Human Beings of the Organization for Security and Cooperation in Europe.

best interests of the child are a primary consideration. States must also develop and monitor minimum standards for organizations providing care.

102. In parallel to such individualized plans, it is of the utmost importance to involve the family, when possible, and the community at large in the recovery and rehabilitation of child victims. A clear understanding of children's suffering is essential to prevent any discrimination by relatives and the community.

103. Lastly, further efforts should be made to establish comprehensive, rights-based and child-centred care, recovery and reintegration programmes, with a gender perspective, in a full range of laws, policies and services.

## **2. Investigation and prosecution**

104. Successful investigation and prosecution are indispensable in curbing the culture of silence surrounding child sexual abuse and commercial sexual exploitation and tackling impunity. In addition to the existing gaps in various legal frameworks, weak enforcement or the absence of child-friendly investigation and reporting mechanisms often lead to underreporting of violations. This often results in secondary victimization and discourages child victims to come forward. In many instances, complaints lodged with the police are not duly acted upon, the gathering of compelling evidence is delayed, and investigation and prosecution is stalled, resulting in victims or witnesses withdrawing their complaints. Many cases are dismissed on the grounds that statements by child victims are allegedly inconsistent.

105. Furthermore, law enforcement officers, medical professionals, social workers, the legal profession and other relevant State officials often have limited capacity to address these cases in line with the existing laws and standards due to inadequate training and lack of resources. The front-line social protection actors responsible for the day-to-day identification and reporting of cases often do not have access to adequate support and counselling services and suffer long-term consequences, including post-traumatic stress and burnout.

## **3. Education and awareness-raising**

106. Limited knowledge about the various manifestations of sale and sexual exploitation among government officials, community leaders, children and their families, and society in general remains a serious challenge in addressing the demand factor, improving reporting of cases and preventing abuse.

107. Children should receive concrete information on how to report these crimes and where to receive assistance. They must be equipped with the necessary tools and knowledge, including comprehensive, age-appropriate sexual and reproductive health education, including on the effects of early marriage and other online and offline malpractices. Without proper education programmes and guidance, children may fail to understand consent and the nature of sexual exploitation and abuse.

## **4. Child participation**

108. Child victims have the right to be heard, including in all administrative and judicial procedures concerning their life and well-being. However, child participation is generally deficient at the national level, and the exercise of this right remains at the discretion of the State officials and is often neglected due to patriarchal social norms and age-related stereotypes. There is also a lack of general understanding of the concept of participation and of children's evolving capacities, and limited guidance on how to ensure the meaningful participation of children in decision-making on all issues affecting them. In terms of good practice, inspiration can be sought from the involvement of children in the monitoring of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention).<sup>70</sup>

<sup>70</sup> Secretariat of the Lanzarote Committee, "Guidelines for implementation of child participation". Available at <https://rm.coe.int/guidelines-for-implementation-of-child-participation-in-the-2nd-monito/16808a3956>.

## 5. Data collection and analysis

109. While children are repeatedly referred to as a particularly vulnerable group in reports to the high-level political forum on sustainable development (see A/73/174 and Corr.1), there is a general lack of analysis and disaggregated data on how the 2030 Agenda for Sustainable Development is being implemented in relation to the elimination of the sale and sexual exploitation of children, to ensure that no child is left behind. The absence of reliable data jeopardizes efforts to combat the sale and sexual exploitation of children. The hidden nature of those violations makes data collection extremely important. The Special Rapporteur hopes that the impetus provided by the Sustainable Development Goals and their corresponding indicators will lead to further efforts in this area.

## V. Conclusions and recommendations

### A. Conclusions

110. The Special Rapporteur recognizes the ongoing legislative, institutional and policy efforts undertaken by States aimed at clarifying terminology, improving cross-sectoral and transnational cooperation and raising awareness with regard to the sale and sexual exploitation of children. She is concerned, however, that serious gaps in legislative and policy implementation, including those identified by her predecessor in her report at the end of her tenure (A/HRC/25/48), remain unaddressed.

111. The Special Rapporteur acknowledges that although significant gains have been achieved in terms of awareness-raising, the scale of the problem continues to expand at an alarming rate. Several manifestations of the sale and sexual exploitation of children are worsening further and their underpinning causes becoming increasingly complex to tackle. Furthermore, the social, cultural, gender and institutional constructs that foster the conditions in which the sexual exploitation of children is ignored, tolerated or even accepted continue to prevail. Rapid global developments such as conflict, migration, natural disasters and economic instability further contribute to increasing the vulnerability of children. The global expansion of ICT means that more children will be at risk of abuse and exploitation on a much wider scale and that detection of such abuse and exploitation will become extremely difficult. With these challenges in mind, more robust efforts, means and resources are needed to prevent and eradicate the scourge of the sale and sexual exploitation of children.

112. The Special Rapporteur observes that national systems are largely failing to effectively address impunity, identify all child victims and provide them with adequate recovery and rehabilitation services. Existing data-collection mechanisms are inconsistent, which continues to obstruct the effectiveness and efficiency of prevention and response efforts. Efforts to prioritize prevention through education and awareness-raising campaigns are insufficient. Comprehensive legal systems, holistic policies and proper data collection are the first steps. These policies must be rooted in the framework of an overall strategy to address all forms of violence – including the sale and sexual exploitation of children, both offline and online – which should be implemented in a collaborative manner, with coordination across sectors and States. States must step up their efforts and allocate the resources necessary to achieve targets 8.7 and 16.2 of the Sustainable Development Goals.

113. The mandate of the Special Rapporteur can serve as a platform to monitor progress in implementation of these policies, identify and raise awareness about persisting and emerging challenges, and encourage more collaboration and exchange of good practices through constructive dialogue with States and with representatives of civil society, the private sector and children themselves beyond the country visits, provided that the necessary resources are available. Cooperation and coordination with other United Nations entities is also essential.

## B. Recommendations

114. The Special Rapporteur reiterates the recommendations issued by her predecessor at the end of her six-year tenure (see A/HRC/25/48). She calls on States to accelerate efforts towards achieving comprehensive, rights-based and child-centred protection systems, support and promote a coordinated global response to eradicate the sale and sexual exploitation of children, and strengthen the mandate of the Special Rapporteur in order to ensure proper monitoring and follow-up to the recommendations, including the possibility of providing the necessary technical assistance, if requested, particularly in the framework of country visits.

115. The Special Rapporteur urges States to put in place comprehensive legal frameworks to prevent, prohibit and protect children from all forms of offline and online manifestations of the sale and sexual exploitation, including by:

(a) Accelerating efforts to achieve the universal ratification of the Convention on the Rights of the Child and the Optional Protocols thereto;

(b) Criminalizing all forms of the sale and sexual exploitation of children as separate crimes, distinct from trafficking, incorporating into national legislation the full definitions of the sale of children, child prostitution and child pornography contained in the Optional Protocol and in line with the guidelines regarding the implementation of the Optional Protocol;

(c) Addressing impunity as a matter of priority through the development of child-friendly justice systems to encourage and enable children to seek justice and reparation;

(d) Improving the technical capacity of law enforcement agencies, child protection professionals and the justice system to effectively detect, investigate, prosecute and sanction the constantly evolving manifestations of these crimes;

(e) Designing evidence-based and prevention-focused measures that take into account root causes and underlying factors, including demand;

(f) Implementing social protection policies and family-strengthening programmes;

(g) Expanding bilateral, regional and international agreements and partnerships with countries of origin, transit and destination to prevent and combat the sale and sexual exploitation of children;

(h) Ensuring respect for human rights in the private sector, including Internet service providers, the telecommunications industry, the tourism and travel industry, the media and financial institutions;

(i) Creating a centralized database of disaggregated and up-to-date data on the various forms of sexual abuse and exploitation of children, with a special focus on children in need of special protection;

(j) Coordinating with and supporting the efforts of non-governmental organizations that work to detect, receive and refer cases of sexual abuse and exploitation of children;

(k) Dedicating sufficient State funding to enabling civil society and other service providers to maintain sustainable and high-quality services and develop innovative solutions and approaches;

(l) Ensuring strong institutions and mechanisms, equipped with well-trained staff, to provide care, recovery and reintegration services;

(m) Increasing awareness-raising and capacity-building campaigns, including among communities and children in vulnerable situations, caregivers, government officials, the relevant industries and the general public.

116. The Special Rapporteur encourages more robust and meaningful efforts by States and the United Nations to ensure the accountability of military and peacekeeping troops and of international humanitarian personnel in cases of child sexual abuse and exploitation (A/72/164, para. 83 (f)). The United Nations should

ensure that the sale of and trafficking in children are linked to the six grave violations against children,<sup>71</sup> and when such violations constitute international crimes, the international community should ensure that perpetrators are held accountable by referring their cases to the International Criminal Court (ibid., para. 84).

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<sup>71</sup> See <https://childrenandarmedconflict.un.org/six-grave-violations>.