

Submission on the Draft General Comment on Persons with Disabilities in Situations of Risk and Humanitarian Emergencies (Article 11 of the Convention on the Rights of Persons with Disabilities)

Dear Madam Chairperson, Ms. Rosemary Kayess,

I have the honour to make this submission in my capacity as United Nations Special Rapporteur on trafficking in persons, especially women and children, in accordance with the mandate granted by Human Rights Council resolution 44/4.

1. In situations of risk, disasters, including climate related disasters, and humanitarian emergencies, trafficking in persons, especially women and children may increase. Persons with disabilities may be at increased risk of trafficking in persons, where disaster responses and humanitarian action, fail to ensure effective action to prevent trafficking in persons and to ensure that prevention measures are inclusive of, and ensure the rights of all persons with disabilities, without discrimination, and fail to comply with both procedural and substantive obligations arising under the UN Convention on the Rights of Persons with Disabilities, and international human rights and humanitarian law.¹
2. The increased risks of trafficking in persons arising as a result of sudden-onset disasters, including climate-related disasters and resulting displacement, have been repeatedly acknowledged. United Nations entities have addressed trafficking in humanitarian responses to specific disasters, with examples including the response of the Office of the United Nations High Commissioner for Refugees to floods in Pakistan in 2010⁴ and International Organization for Migration initiatives implemented following Cyclone Aila in Bangladesh in 2009, Typhoon Haiyan in the Philippines in 2013, flooding and

¹ I am grateful for the background research and expert advice provided by Keelin Barry, Government of Ireland, Irish Research Council PhD scholar. See Barry K, *Joint Submission from the Irish Centre for Human Rights and the Centre for Disability Law and Policy to the Draft General Comment on Persons with Disabilities in Situations of Risk and Humanitarian Emergencies (Article 11 of the Convention on the Rights of Persons with Disabilities)*, available at: <https://www.universityofgalway.ie/irish-centre-human-rights/newsevents/joint-ichrcdlp-submission-to-the-general-discussion-on-article-11-of-the-crpd.html>

landslides in Myanmar in 2015 and Hurricane Matthew in Haiti in 2016.² The obligations arising for States under international human rights law in the context of humanitarian emergencies, disasters and climate related disasters, include “procedural, substantive, and special obligations towards those in vulnerable situations.”³

3. In her 2022 Report to the UN General Assembly, *Addressing the gender dimensions of trafficking in persons in the context of climate change, displacement and disaster risk reduction*, the Special Rapporteur has stressed the necessity of recognizing the intersections of discrimination and exclusion that exacerbate the negative impact of disasters, including climate related disasters, and humanitarian emergencies. Specific groups experiencing both intersectional discrimination and heightened risks of trafficking in such contexts, include, persons with disabilities, in particular, women and girls with disabilities.⁴
4. The Special Rapporteur has previously expressed concern that as a result of discrimination, harmful stereotypes and failures to ensure reasonable accommodation, people with disabilities, in particular women and girls, are at heightened risk of violence, including trafficking in persons, during climate-related disasters and emergencies, especially in emergency shelters. Constraints imposed on decision-making and situations of dependency may limit mobility, including opportunities for migration, planned relocation or resettlement, and increase risks of harm and human rights violations, including trafficking in persons. Discrimination and stereotyping may also limit the participation of persons with disabilities in decision-making and policy planning in relation to climate change and disaster resilience and responses.
5. The Special Rapporteur has highlighted the disproportionate impact of disasters and humanitarian emergencies on women and girls and on persons with disabilities. Increased loss of livelihoods, and the consequent disruption to physical, social, economic and environmental networks and support systems, disproportionately affect persons with disabilities and their families. Gender, and specifically gender inequality and discrimination, shape and determine the impact of humanitarian emergencies, conflicts and disasters, including climate related disasters. Women experience greater loss of livelihoods as a result of the impact of disasters, have less control over resources and have more limited opportunities for migration or employment to mitigate the impact of disasters. These inequalities are not inevitable or unexpected. They arise from and are a consequence of discrimination and inequality.
6. The Special Rapporteur highlights the core provision of the Sendai Declaration and the Sendai Framework for Disaster Risk Reduction 2015–2030 on “building back better”. While the importance of integrating gender equality and the participation of women in the design and implementation of disaster preparedness and response policies is recognized, more action is needed to address the specific risks faced by persons with disabilities, in particular women and girls with disabilities, arising from disasters. The Special Rapporteur stresses the obligation of States to strengthen partnerships with

² See: Report of the UN Special Rapporteur on trafficking in persons, especially women and children, (2022) *Addressing the gender dimensions of trafficking in persons in the context of climate change, displacement and disaster risk reduction*, A/77/170, at para.4

³ See: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/74/161), para. 63.

⁴ See: Report of the UN Special Rapporteur on trafficking in persons, especially women and children, (2022) *Addressing the gender dimensions of trafficking in persons in the context of climate change, displacement and disaster risk reduction*, A/77/170, para.33

civil society and disability rights advocates, in order to achieve the objective of participatory disaster risk governance and to meet their obligations concerning the prevention of trafficking in persons for all purposes of exploitation.

7. The Special Rapporteur has highlighted the negative impact of climate-related disasters on persons with disabilities, and recommended that States ensure that, “the rights of persons with disabilities are effectively protected in all climate and disaster risk reduction and response policies; ensure non-discrimination, reasonable accommodation and disability inclusion in all anti-trafficking measures, including in the provision of information, assistance and protection, and in comprehensive prevention measures; and ensure the inclusion and participation of persons with disabilities in all decision-making related to climate action and resilience to disasters.”⁵
8. The Special Rapporteur highlights and welcomes the agreed conclusions of the sixty-sixth session of the Commission on the Status of Women, in which the Commission urged governments at all levels, United Nations entities and other organizations to take actions to address trafficking in persons, which it stated might be exacerbated in contexts of climate change, environmental degradation and disasters ([E/CN.6/2022/L.7](#), para. 62 (mm)).
9. The Special Rapporteur highlights the resolution of the Working Group on Children’s Rights and Climate Change of the African Committee of Experts on the Rights and Welfare of the Child, in which the Working Group calls upon States to, “incorporate a child-rights-based approach to climate action, ensuring that the specific risks faced by children are taken into account in the development and implementation of climate policies and programmes, paying particular attention to the needs of those children who are most vulnerable to the effects of climate change, such as girls, indigenous groups and children with disabilities”.⁶ The Special Rapporteur highlights the Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons and Victims of Trafficking in Persons, which set out the specific obligations of States towards children, including in the context of emergencies.
10. In her 2021 Report to the UN General Assembly, the Special Rapporteur has specifically highlighted the obligation of States to ensure that measures to combat trafficking in persons are disability-inclusive and comply with the Convention on the Rights of Persons with Disabilities and with Security Council resolution 2475 (2019) on the protection of persons with disabilities in situations of conflict, in order to ensure effective access to justice, assistance and protection, and effective remedies.⁷ As the Special Rapporteur has noted, and highlighted by the Security Council, risks of trafficking in persons are exacerbated in crisis situations, in particular in situations of conflict, and humanitarian emergencies.
11. In situations of risk and humanitarian emergencies, displacement can lead to increased risks of trafficking in persons. Limited attention is given to preventing trafficking or to

⁵ Report of the UN Special Rapporteur on trafficking in persons, especially women and children, (2022) *Addressing the gender dimensions of trafficking in persons in the context of climate change, displacement and disaster risk reduction*, A/77/170, at para.61

⁶ Resolution No. 18/2022 of the Working Group on Children’s Rights and Climate Change of the African Committee of Experts on the Rights and Welfare of the Child. Available at <https://www.acerwc.africa/wp-content/uploads/2022/04/Resolution-No-182022-on-Integrating-a-Child-Rights-Based-Approach-to-Climate-Change-Responses.pdf>.

⁷ Report of the Special Rapporteur on trafficking in persons, especially women and children, *On the nexus between trafficking and terrorism*, (2021) A/76/263, at para.60

ensuring effective access to assistance and protection of trafficked persons in situations of internal displacement. The report of the High-level Panel on Internal Displacement specifically highlights the risks of child trafficking where children lose access to formal education and become “more vulnerable to recruitment by gangs or armed groups, ... trafficking and negative coping strategies.” The Platform on Disaster Displacement has highlighted the weaknesses of international legal provisions to protect displaced persons in the context of disasters and the adverse effects of climate change (for example, on admission and conditions for return). These risks of exploitation, and serious human rights violations, may be increased for persons with disabilities, where there are failures to implement the positive obligations arising under the CRPD.⁸

12. The Special Rapporteur has previously highlighted that States should ensure the full, equal and effective participation and leadership of women, in particular women with disabilities, in the design, management, resourcing and implementation of gender-responsive and disability-inclusive disaster risk reduction policies, plans and programmes. Further, the Special Rapporteur recommends that States should ensure that gender equality and the rights of women and girls with disabilities, are integrated into disaster risk reduction programmes and regional and national action plans, including, specifically, those concerning the implementation of the Sendai Framework for Disaster Risk Reduction 2015–2030.
13. The Special Rapporteur highlights that to prevent trafficking in persons and protect victims of trafficking, in situations of risk and humanitarian emergencies, States must ensure effective access to international protection, expanded resettlement opportunities, humanitarian visas and family reunification, without discrimination, and ensuring the rights of all persons with disabilities. States must cooperate to ensure an expansion of planned relocation opportunities, without discrimination and fully respecting the rights of persons with disabilities, ensuring the prevention of trafficking in persons in all actions to achieve realization of Sustainable Development Goal target 10.7.
14. The Special Rapporteur highlights that States, both individually and in cooperation, must adopt human rights-based migration policies to respond to the protection needs of persons displaced owing to climate related disasters and humanitarian emergencies. These policies should include the creation and expansion of human rights-based and humanitarian avenues for entry and stay for persons displaced, in full recognition of the principle of non-discrimination in international human rights law and ensuring the rights of persons with disabilities, as provided for in particular under the UN Convention on the Rights of Persons with Disabilities.

⁸ See Barry K, *Joint Submission from the Irish Centre for Human Rights and the Centre for Disability Law and Policy to the Draft General Comment on Persons with Disabilities in Situations of Risk and Humanitarian Emergencies (Article 11 of the Convention on the Rights of Persons with Disabilities)*, available at: <https://www.universityofgalway.ie/irish-centre-human-rights/newsevents/joint-ichrcdlp-submission-to-the-general-discussion-on-article-11-of-the-crpd.html>

Thank you for your consideration. I remain available to assist the Committee in its important work in promoting and protecting the rights of persons with disabilities.



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