**Statement to 24th Session UN Committee on the Rights of Persons with Disabilities, March 8 2021**

**Mr Chairperson, Committee members,**

Thank you for the opportunity to address the Committee on the Rights of Persons with Disabilities, on International Women’s Day. I am grateful to you for the opportunity to highlight the serious human rights violation that is trafficking in persons, the particular risks that may be faced by persons with disabilities, and States’ obligations of non-discrimination and reasonable accommodation in all anti-trafficking actions.

1. The intersections of disability and human trafficking is an area that has been neglected in international law, policy and practice on human trafficking. This gap should be addressed as a matter of urgency. Limited disaggregated data is available on experiences of persons with disabilities of human trafficking, or prevalence of forms of exploitation. This contributes to the lack of visibility, and a lack of knowledge and good practice.
2. The non-discrimination principle is at the heart of international law on human trafficking. States’ obligations of prevention, protection, prosecution and partnership apply without discrimination. However, it is important that attention to disability and the rights of persons with disabilities goes beyond brief references to heightened risks of exploitation or to obligations of non-discrimination in general terms. Disability may intersect with law, policy and practice on human trafficking at multiple points.
3. **Prevention**: Risks and vulnerability to trafficking may be linked to institutional and congregated settings, which create dependency and may perpetuate a situation of isolation or marginalisation. As is noted in Article 16(3) of the CRPD, States Parties must ensure that “all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.” This must include monitoring and a comprehensive approach to effectively prevent human trafficking – for all forms of exploitation.
4. We also know that experiences of social marginalisation and relationships of dependency, arising from structural inequalities and discrimination, may also increase risks of poverty and social exclusion, thereby heightening risks of exploitation.
5. Article 6 of the CRPD specifically addresses the intersectional discrimination that women with disabilities face. In its recent General Recommendation No. 38 on Trafficking of Women and Girls in the Context of International Migration, ([CEDAW/C/GC/38](https://reliefweb.int/sites/reliefweb.int/files/resources/CEDAW_C_GC_38_9278_E.pdf) 6 November 2020), CEDAW notes that sex and gender-based discrimination, gender based structural inequality and feminisation of poverty are root causes of trafficking. They also note that women and girls with disabilities may be at particular risk of trafficking, where their life experiences are marked by serious human rights deprivation. (para.20)
6. As is noted in CRPD GC no.3 on women and girls with disabilities [CRPD/C/GC/3](https://www.refworld.org/docid/57c977344.html) (2 September 2016), “Women with disabilities may be targeted for economic exploitation because of their impairment, which can in turn expose them to further violence. For example, women with physical or visible impairments can be trafficked for the purpose of forced begging because it is believed that they may elicit a higher degree of public sympathy.” (para. 34)
7. **Identification**. Identification of victims of trafficking is critical and early identification ensures referral for specialised assistance and protection, including legal aid. Identification is a positive obligation on states, and is not dependant on self-identification. It is critical to ensure that information for victims of trafficking and those at risk of exploitation is accessible and easily available, and that the specific risks faced by persons with disabilities, are recognised by all actors involved in National Referral Mechanisms (NRMs).
8. **Assistance and Protection:** The obligation of reasonable accommodation (Article 5(3) CRPD) requires reasonable accommodation for disabled persons as a non-discrimination measure. It is essential that all anti-trafficking actions, including the provision of specialised services and support, include mechanisms to ensure reasonable accommodation for those who have experienced trafficking. We know from working with NGO partners providing services, that this obligation is not being met by States, including States Parties to CRPD.
9. Disabled persons, in particular, women and girls, who are victims of trafficking, may not have access to essential supports and accessibility needs, while victims of trafficking. These experiences may give rise to additional needs for specialised services to ensure full physical, cognitive and psychological recovery, rehabilitation and social reintegration, and inclusion. It is critical to ensure that such social inclusion measures, in line with Article 16(4) CRPD, are trauma informed, and ensure the rights, dignity and autonomy of victims of trafficking with disabilities, taking into account gender- and age-specific needs.
10. **Access to Justice:** The CRPD Committee has highlighted specific challenges that may arise in ensuring access to justice, and access to effective remedies for persons with disabilities. These are particularly urgent in the context of the serious human rights violation of trafficking, and impede both access to legal assistance, and to remedies. As has been noted by CRPD, the specific barriers that arise may include:

“[…] owing to harmful stereotypes, discrimination and lack of procedural and reasonable accommodations, which can lead to their credibility being doubted and their accusations being dismissed.

Negative attitudes in the implementation of procedures may intimidate victims or discourage them from pursuing justice. Complicated or degrading reporting procedures, the referral of victims to social services rather than the provision of legal remedies, dismissive attitudes by the police or other law enforcement agencies are examples of such attitudes. (CRPD GC no. 3)

Women with disabilities may also fear reporting violence, exploitation or abuse because they are concerned that they may lose the support required from caregivers. (para. 52: CRPD GC no.3)

1. **Legal Capacity (**Article 12CRPD**)** Lack of recognition of legal capacity may increase vulnerability to trafficking and also hinder access to assistance and protection, including legal assistance. For persons with disabilities, this risk can arise due to formal denial of legal personhood via legal regimes such as guardianship, or may be linked to difficulties in accessing identity documentation in order to be recognised as a legal person. (Such difficulties may arise in particular where disabled persons are institutionalised or are in ‘care’ settings where identity documentation is removed and inaccessible.
2. **Trafficking in Conflict and Humanitarian settings** is a thematic priority for my mandate. On this priority issue, I have been working with the Global Protection Cluster, and will continue to highlight the intersections of trafficking and disability in such settings. As has been noted by CRPD, in GC no.3 on women and girls with disabilities: “In situations of armed conflict, occupation of territories, natural disasters and humanitarian emergencies, women with disabilities are at an increased risk of sexual violence and are less likely to have access to recovery and rehabilitation services or access to justice.” (para. 49). This is a concern that I will continue to highlight in working with the Global Protection Cluster. Next week will see the launch of new guidance on Trafficking in IDP settings, and it will be an opportunity to again highlight the specific obligations stated in the CRPD, and expanded through the practice of the CRPD Committee.
3. **Questions of Definition: Defining Trafficking in Persons (the means element)** One of the recognised ‘means’ of trafficking listed in the UN Trafficking in Persons Protocol is ‘abuse of a position of vulnerability’. Such abuse may occur, for example, where vulnerability is linked to a relationship of dependency in a family setting, or to an institutional setting. The travaux préparatoires to the Protocol include an interpretative note to the effect that reference to the abuse of a position of vulnerability “is understood as referring to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved.” Abuse of a position of vulnerability may also considered as an aggravating factor in sentencing (see for example Recital para 12, to EU Trafficking Directive 2011/36/EU,). The ILO Forced Labour Convention, 1930 (No. 29) and the ILO Abolition of Forced Labour Convention, 1957 (No. 105), do not refer to the notion of “abuse of vulnerability”. However, the ILO supervisory bodies have considered the concept in examinations of national legislation and practices aimed at combatting forced labour, as well as practices that constitute forced labour. I note the relevance of this question also to the continuums of exploitation that exist in situations where there is a lack of protection of rights to decent work.

**Thank you to the Committee and I look forward to opportunities for further collaboration.**

**Note: Reporting of intersections of Disability Rights and Trafficking in Persons in the U.S. State Dept Trafficking in Persons Report 2020 including:**

Persons with disability at higher risk of trafficking (Canada; Colombia; Cuba; Honduras; Japan; Kenya; Latvia; Mexico; Rwanda; Slovakia; Tanzania; USA)

* Impact of non-inclusive education “An international organization reported 43 percent of children with disabilities in Rwanda did not attend school, increasing their vulnerability to be targeted by traffickers”

Forms of Exploitation

* forced begging common in many jurisdictions (Austria; Bulgaria; Burundi; China; Iraq; Kenya; Madagascar; Niger; Pakistan; Slovakia; Tanzania)
* forced labour (China; Kosovo [South Korean men with intellectual disabilities]; Vietnam)
* Forced criminality (Cyprus [distributing illegal substances and committing welfare benefits fraud]; Iraq [conflict-related])
* Sexual exploitation [Japan; India; Romania; Taiwan)

Families can be complicit in exploitation/ trafficking of both children and adults (Burundi; Madagascar)

Exploitation in institutional/ residential care settings (India; Mexico; Romania; Ukraine)

Protection

* Republic of Korea – “some NGOs reported the quality of victim care was insufficient, particularly for male, victims with disabilities, foreign, and juvenile victims.”
* Austria good practice – “Government-funded NGOs provided shelter, medical and psychological care, legal assistance, and German language classes to adult victims, including specialized services for victims with disabilities.”
* Mauritania – “Government-provided services included counseling, legal assistance, testing for sexually transmitted diseases, and accessible services for victims with disabilities.”
* Mongolia – “Two NGO-operated shelters were the main victim service providers in the country; only one could accommodate male victims, and neither was accessible to persons with disabilities”
* Netherlands – “All shelters provided medical and psychological care, schooling, language and skills training, and legal assistance; some also provided self-defense classes, and most had facilities accessible to individuals with disabilities”
* Nicaragua – “The government did not prioritize accessibility for disabled trafficking victims in care facilities. There were no shelters available for men. NGOs reported there was minimal, if any, formal coordination with the government on victim services provision.”
* Rwanda – “NGOs reported the one-stop centers primarily focused on the needs of female victims; assistance for male victims and victims with disabilities remained insufficient;”
* South Africa – “Shelters accessible to persons with disabilities provided limited services; however, it is unclear if any victims received these services during the reporting period.”
* USA – “Survivor advocates reported a lack of specialized services for American Indians and Alaska Natives, individuals with disabilities, and the elderly”