



संयुक्त राष्ट्र संघका लागि नेपालको स्थायी नियोग
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The Permanent Mission of Nepal to the United Nations Office and other International Organizations in Geneva presents its compliments to the Special Procedures Branch, Office of the High Commissioner for Human Rights (OHCHR), and with reference to the letter from the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material dated 22 September 2022 requesting for inputs to report to the 52nd session of the Human rights council, has the honour to enclose herewith inputs from the Government of Nepal for the report.

The Permanent Mission of Nepal to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch, Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 27 December 2022

Special Procedures Branch
Office of the High Commissioner for Human Rights (OHCHR)
Geneva





Response of the Government of Nepal
to
the Special Rapporteur on the sale and exploitation of children including child prostitution,
child pornography and other child sexual abuse material
on
Reparation for child victims and survivors of sale and sexual exploitation

1. What are the current needs of the child victims and survivors to redress and reparation both in conflict and non-conflict settings?

Children are among the most vulnerable groups due to their age, mental, and physical growth, condition, and emotional factors. Due to the abhorrent nature of the crimes suffered by child victims of sale and sexual exploitation, the care they receive when they escape or are rescued is of the utmost importance.

Reparation programmes include both the distribution of direct benefits to the victims themselves such as restitution, compensation, and rehabilitation and other key measures and initiatives within transitional justice that, if crafted with forethought and care, could have reparative effects, namely rehabilitation, satisfaction and guarantee of non-recurrence. The current needs of the child victims and survivors to redress and reparation both in conflict and non-conflict settings are as follows:

- Physical safety is the preliminary need of the child victims and survivors,
- Immediate medical and psychosocial support for children exposed to physical, sexual, and emotional violence and neglect,
- An environment of trust, comfort, love, care, and support,
- Access of child victims to safe and secure housing, medical and psychological care, legal assistance, education, vocational training, life skills and socioeconomic support, sports and leisure activities, religion and cultural practices,
- Involvement of the family in the care, recovery, and reintegration process. Assistance, including psychosocial support and livelihoods, to the family,



- Consistent funding and adequate resources to provide continuous comprehensive quality assistance and ensure the sustainability of support services to child victims in the short, medium, and long term,
- Care, recovery, and reintegration programmes to ensure that children receive holistic and multidisciplinary support that leads to durable solutions. A comprehensive, rights-based, and child-centered care, recovery, and reintegration programme,
- Reintegration work should also aim to change negative behaviour and attitude of families and communities towards children who are reintegrated into society,
- Analysis of the root causes of the sale of children, child prostitution, and child pornography.

Thus, recognizing the needs of the child victims of transportation, sale, and sexual abuse and healing of the relationships through reintegration of the child victim in their family and the society adhering to the four pillars; Right to survival, Right to Protection, Right to Development and Right to Participation should be the final ambition of the reparation.

2. What are the gaps and challenges within the ambit of the international human rights and humanitarian law, in terms of both the existing framework and the implementation status to address to the needs of the child victims and survivors? What measures can be taken to overcome these gaps?

Despite several efforts and measures to address the sale and exploitation of child victims, there are still some challenges and gaps. According to the Office of the Anti-Human Trafficking Bureau and Central Investigation Bureau of Nepal Police, girls who are out of school, homeless and street children, children of conflict areas, minorities and children in foster care homes are at high risk of being exploited as sex workers.

Common challenges in implementation status to address the need for successful care, recovery, and reintegration of child victims of sexual exploitation include:

- multi-facets of poverty, unemployment, deprivation of basic needs, and expectation of better and more comfortable life lead the children to fall into various temptations –



sale, trafficking, and sexual abuse,

- lack of awareness, domestic violence, and internal migration are some of the driving factors of a child being trafficked and sexually abused,
- rapid growth of internet and technology is one of the pull factors among others. Wide use of internet without digital literacy has affected most children and adolescents results in various forms of sexual violence, exploitation, and abuse,
- lack of understanding of child sexual exploitation on the part of professionals hampers their ability to take complaints seriously,
- lack of specialized caregivers, mandatory training and minimum qualifications for caregivers and minimum standards for organizations that provide care,
- lack of consistent resources, including funding, to establish long-term care and recovery programmes,
- lack of coordination among the responsible agencies,
- scattered approach to address the child trafficking, sale and sexual abuse of children,
- lack of effective monitoring, reporting, and follow-up contribute to escalating the problem.

3. Who are the duty bearers to define, implement and provide the reparation to child victims and survivors? In what forms should the reparation be provided, how should they be assessed?

Every child has a right under international law to receive care, recovery and reintegration services for the harm suffered as a victim of sexual exploitation. The major international human rights instruments including the Convention on the Rights of the Child, Optional Protocol on the sale of children, child prostitution, and child pornography confer States as a primary duty bearer to take all appropriate measures for the protection of child victims and survivors.

Nepal as a State party to most of the human rights conventions including the Convention on the Rights of Child and Optional Protocol on the sale of children, child prostitution and child pornography, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against



Transnational Organized Crime (Palermo Protocol); is obliged to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of sale and sexual exploitation.

The Government of Nepal, Council of Ministers defines and decides the duty bearer and the reparation to be provided to the child victims and survivors. The Ministry of Women, Children and Senior Citizens has been designated as the line ministry responsible for the protection of child rights including control of trafficking, sale, prostitution and sexual abuse of children. The Ministry of Home Affairs is also responsible for the rescue of child victims of trafficking, sale and sexual abuse.

National Child Rights Council has been established as a specialized body for the protection and promotion of child rights. Anti-Human Trafficking Bureau and Central Investigation Bureau of Nepal Police, Criminal Investigation Department and Directorate of Women, Children and Senior Citizen Services in the federal level, crime control and investigation division in all seven provinces, all 77 District Police Offices and 233 Police Units deal with the issues of all kinds of violence against children; child trafficking, rape, sexual violence and abuse, domestic violence, child marriage, illegal abortion including inhumane acts.

The development partners, particularly UN agencies, relevant international and national non-governmental organizations, and civil societies including the South Asian Nations Campaign to End Violence against Children (SAIEVAC) and media have been working together with the government line agencies especially for carrying out awareness on these issues and providing feedback.

To ensure that the victims receive appropriate reparation, actual and reliable data on the number of victims should be collected, appropriate reparation measures should be designed, consultations and coordination with the concerned stakeholders should be organized, access of the victims to such reparation programmes and regular monitoring, reporting and follow up on the effective implementation of such reparation programmes should be ensured. Thus, efforts of all the duty bearers should be geared towards it.



4. How do we identify and delineate the roles of state, non-state and individual actors ensure that reparation reaches the child victims and survivors?

States bear the primary responsibility to design and implement programmes, policies and services to ensure the identification of the victims and their right to care, recovery and reintegration. However, in many settings, non-governmental organizations, and development partners do play a pivotal role in filling the gaps. The clear role and responsibility of interdisciplinary agencies for the coordination of integrated care, recovery and reintegration programmes, in the delivery of support services, is to ensure that reparation reaches the child victims and survivors.

5. What measures are put in place to hear and understand how child victims and survivors would perceive meaningful reparation?

The Government of Nepal (GoN) has adopted ample legal, policy, institutional and programmatic measures to combat child trafficking, sexual exploitation and abuse, and meaningful reparation. GoN has been implementing protective, preventive and curative policies and programmes in collaboration with the provincial and local level government.

Nepal is a party to seven out of nine core international human rights conventions. The Constitution of Nepal guarantees many of the internationally acknowledged human rights as fundamental rights. Equality before the law and equal protection of the law, access to justice, right to get information about the investigation and proceedings of a case in which he/she is the victim, right to justice including social rehabilitation and compensation in accordance with the law, are some of the rights ensured by the Constitution. Similarly, the rights of every child to name and birth registration along with his or her identity, right to education, health, maintenance, proper care, sports, entertainment and right to elementary child development and child participation are ensured as fundamental rights by the Constitution.

The Act relating to Children, 2018 ensures the right of child victims and provides the right to get free legal aid and socio-psychological counseling service as required. The Human Trafficking and Transportation Control Act, 2007 declares child trafficking as a criminal offense and provides severe punishment, and compensation for the victim



along with the state responsibility of rescue, repatriation and rehabilitation.

The Victims of Crime Protection Act, 2018 provides a safeguard against attack, damage, fears, intimidation, or threat by the suspect, accused, offender, or person related to him or her or the witness of the accused against the victim or close relative and person dependent on the victim.

Domestic Violence (Offence and Punishment) Act, 2009, has a provision that the Government of Nepal, as per necessity, may establish Service Centers for the immediate protection of the Victim, and separate accommodation of the Victim during treatment. The Service Centre shall provide, as per necessity, legal aid, psycho-consultation service, psychological service, and economic aid to the Victim.

A child victim or anyone witness to the risk of abuse and exploitation or actual incidence may file a complaint to Nepal police (100), Child Helpline (1098), Domestic Violence Victim Helpline (1145), and Missing Children Response Center (104), Human Trafficking Helpline (1177). National Child Right Council (NCRC) has listed shelter homes that are safe, child friendly and have trained social workers to provide service for victim children. These listed child protection shelters and all the above-mentioned helplines have provisions for psychosocial first aid and psychosocial counseling service for children.

Ministry of Women, Children and Senior Citizens (MoWCSC) has established ten rehabilitation centers to address the problem of victims and survivors of human trafficking (including child victims). Rehabilitation, protection, and integration programmes are currently being implemented through rehabilitation centers in different districts.

The MoWCSC has drafted a National Plan of Action on Children including a specific chapter to address child protection service and victim of child sexual exploitation. The MoWCSC and NCRC have drafted directives on the Protection and Repatriation of Nepali Children from abroad to ensure that children are prevented from illicit transportation and trafficking. It has also drafted Online Safety Directives for Children that prevent producing, transferring, and possession of child images that are harmful, abusive, and exploitative for children.

Various skill development and employment-oriented training programmes, counseling

services, empowerment and livelihood programmes, advocacy, and awareness programmes are organized for the victims and survivors of human trafficking.

6. What role do civil society organizations and victims' groups play in devising, consulting and developing various reparation measures and programmes?

Civil society organizations have been contributing by reaching the individuals and communities affected by the sale and sexual exploitation and developing an innovative reintegration model on a need-based approach in the aftercare system.

Owing to the extreme traumatic experiences that child victims of sexual exploitation suffer, the assistance they require from civil society organizations must be of a holistic nature and supplied through an individualized case management and assessment process.

In Nepal, there are several civil society organizations and Non-Government Organizations working in the sector of child rights. The MOWCSC works in close coordination with these organizations at various stages of devising, drafting and finalizing the reparation measures and programmes. The drafts are shared, interaction programmes are organized and consultations are made with the civil society organizations and stakeholders for their feedback and response. Moreover, dissemination programmes and awareness-raising programmes are also organized in collaboration with civil society organizations.

7. What are the good practices initiated by the stakeholders, and what remaining areas of intervention need to be introduced and/or improved?

Best practices in course of controlling the sale and sexual abuse of children including child prostitution, child pornography, and other child sexual abuse materials are as follows:

- a. Legal, programmatic and institutional measures have been set up to address the trafficking, sale, and sexual abuse of children.

- b. Nepal Police has set up 233 Women, children & senior citizen service centers operating nationwide. It is also responsible for conducting awareness programmes through community-police partnerships at the community level that helps combat such crimes at the grass root level.
- c. School liaison programmes are conducted, targeting the larger school community consisting of students, teachers, and parents for awareness and to declare school as a Zone of Peace to end all kinds of sexual violence and child abuse.
- d. Psycho-social counselors are mobilized in the community along with a 24-Hour Toll-Free Women Service Cells, Rehabilitation Centers, and helplines are in operation.
- e. Women, children, and senior citizen Directorate (WCSCSD) under the crime investigation department of Nepal Police is actively involved in forming a nationwide multitasking forum called the Gender-Based Violence Control Network to promote access to justice and collaboration in controlling gender-based violence against women and children. Currently, 6136 GBV Control Networks are operational throughout the country led by dedicated police personnel from Women, Children & Senior Citizen Service Centers.
- f. Government conducts training for local law enforcement authorities on prevention and prosecution.
- g. Programmes have been developed targeting youth at high risk of victimization and exploitation.
- h. Public programmes have been developed to reach out to victims of trafficking (including children) and educate them about their rights and protections, to increase self-reporting and rescues.
- i. Data collection, analysis, and monitoring system: Nepal Police headquarters, Crime Investigation Department has the central data collection unit that collects crime data including the sale and sexual exploitation data from various police units throughout Nepal on a weekly and monthly basis, which is followed by policy monitoring, periodic



plans, and immediate action plan. Nepal Police has result-based monitoring and data collection as an integral part of the plan and policy related to the sale and sexual exploitation. Anti- Human Trafficking Bureau has been working to investigate and prevent crime more effectively and also collects data related to human trafficking incidents.

- j. Nepal police has signed MoU with 753 local bodies through Community Police Partnership (CPP) Programme to conduct awareness programmes to control crime. In the fiscal year 2077/078, Nepal Police conducted 191 awareness programmes on anti-human trafficking, 127 against rape, 791 against child marriage, and 766 programmes about cybercrime.
- k. Nepal has taken robust action to end child labor, child slavery and child trafficking by mobilizing National Child Rights Council, Missing Children Alert Helpline (104), and Child Helpline (1098) and promoting child-labor-free municipalities.
- l. Eight rehabilitation centers provide victims of trafficking with skills as well as seed money to start a small business enabling them to reintegrate with their families and societies with pride and dignity.

8. How can States and other stakeholders deliver more effectively with respect to amplifying the effective implementation of meaningful reparation to child victims and survivors? Within the purview of international cooperation, what specific measures should be taken based on the existing structures. What is needed for a more coordinated response by the States/other international actors to provide reparation to child victims and survivors?

State and non-state actors have been playing an important role individually and jointly to address the sale, trafficking and sexual abuse of children since the decade. Non-government actors have been more active to advocate, facilitate and raise awareness against these issues. In 1997, a first-ever National Task Force on Trafficking was formed in the then Ministry of Women, Children and Social Welfare for which UNICEF and ILO were supporters. District Level Task Forces were initially established in 26 districts, which have been covered in all 77 districts. A National Policy and Plan of Action to Combat

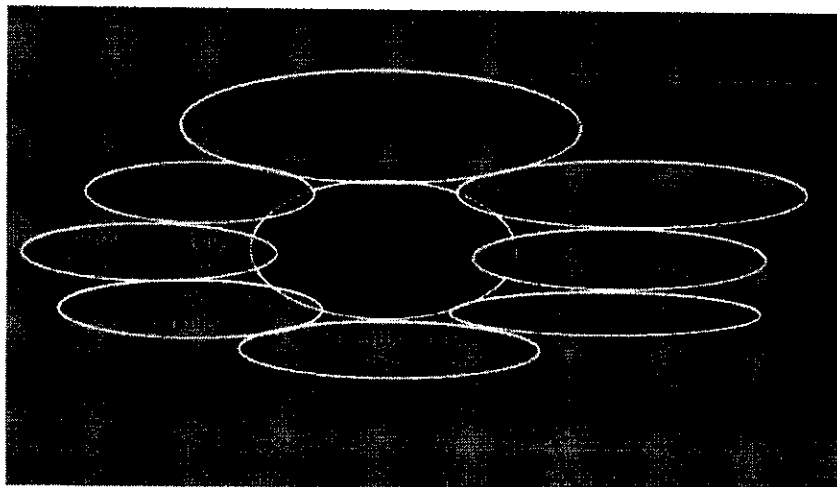
Trafficking was formulated, and UN Task Force on Trafficking was set up under the coordination of UNDP in 1998. Gradually, this initiation spread out among UN agencies, the South Asian Association for Regional Co-operation (SAARC), non-government actors and civil societies. Since, the sale and sexual abuse of children including child prostitution, child pornography and other child sexual abuse materials are common problems faced worldwide, concern of government and non-government agencies including development partners is growing for the protection and promotion of the rights of women and children.

1. Mechanism to control sale, trafficking and sexual exploitation and abuse against children

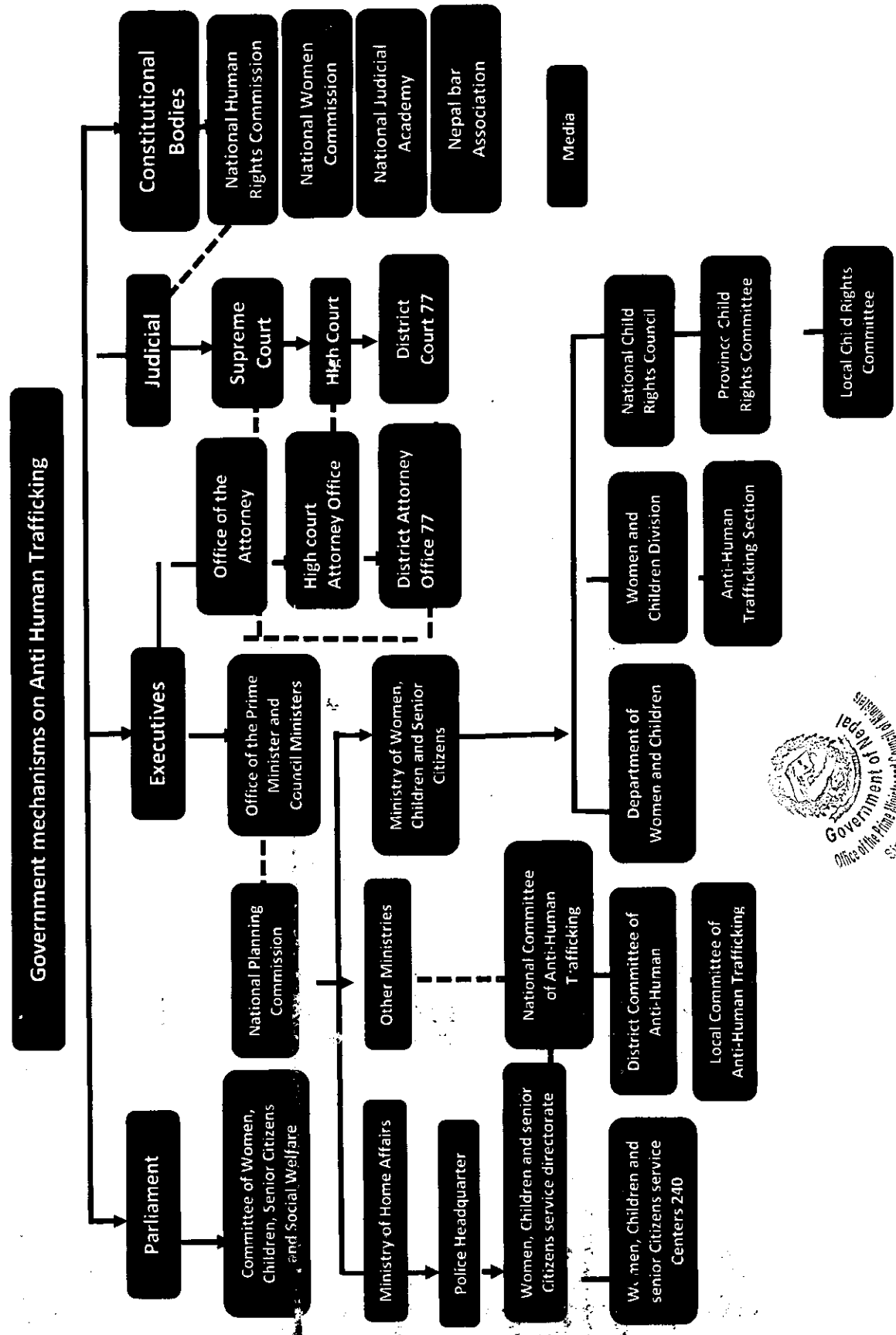
Mechanism to deal with the issues of sale, trafficking and sexual exploitation and abuse, prostitution and pornography against children is in place at the federal, provincial, district and local level. The mechanism is presented as an immediate child protection mechanism as well as overall government mechanisms on anti-human trafficking as follows:

a. Immediate child protection mechanism

The concerned stakeholders given below work as front liners to deal with the issues of child victims and survivors as well as children living in difficult circumstances. The services provided by these stakeholders include tracing out child victims, rescue from an unwanted situation, temporary shelter, psycho-social counseling, legal, health & other relevant support, family trace out & reintegration, and institutional rehabilitation among others.



b. Overall Government Mechanisms on Anti Human Trafficking





For the effective implementation of meaningful reparation to child victims and survivors by the state, it is fundamental to have a sound knowledge base; an institutional presence; a multidisciplinary approach and coordination between different institutions; the participation of children and their families; outreach to the grass-roots level, especially to marginalized groups; attention to gender issues and the concerns of groups exposed to higher risks of sexual exploitation, the involvement of civil society, the business sector, academic institutions and the media and the support of international cooperation, as well as adequate human and financial resources.

For effective delivery by states and other stakeholders, following points should be considered.

- a. Take a more sustainable perspective on justice and rehabilitation services by allocating resources for child victims as part of the state's annual budget, ensuring that no child is left behind, and making sure that concrete and practical measures and services not only exist but are freely available and accessible to all children, independent of their socioeconomic situation and geographical location;
- b. Avoid the secondary victimization of children within the system that should be there to help them, by guaranteeing a child-friendly and trauma-informed lens regarding justice, support and rehabilitation of child victims of sale and sexual exploitation;
- c. Consider children as agents of change and focus rehabilitation services for child victims not only on psychosocial support but also invest in empowering them with adequate education, life skills and vocational skills so that they can reintegrate into society and contribute to building their futures, sustain themselves and share information and knowledge in their communities.

Thus, incorporating the internationally acknowledged principles on child rights in the national plan, programmes and policies, coordinated approach, policy and programmatic coherence, adequate resources and an effective mechanism for reporting, monitoring, and follow-up should be ensured by both states and other international actors.