

Mandates of the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the human rights of migrants; Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 35/5, 35/15, 43/6, 34/16, 42/10 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the disappearance of 58 Venezuelan migrants, including potential victims of trafficking, who were travelling from Venezuela to Trinidad and Tobago in two different boats, in the period between April and June 2019. A similar letter has been sent to the Bolivarian Republic of Venezuela.

According to the information received:

1) Boat Jhonnaly José

On 24 April 2019, the cargo ship "Jhonnaly José" reportedly sank in the early morning. It is alleged that the boat left Guiria (Venezuela) in the evening of 23 April for Trinidad and Tobago with 34 people on board, of whom 24 people are still missing (5 men, 13 women and 6 minor girls). The search and rescue teams, mostly made up of local fisherfolks and relatives of the victims, rescued 9 people and found the body of a girl child, who had drowned.

According to the information received, the victims paid between 200 and 300 USD for their trip; the majority of them did not have valid documents and boarded the boat with the intention of entering Trinidad and Tobago in an irregular way.

Allegedly, the Coast Guard of Venezuela indicated that a search and rescue operation could only be launched 72 hours after the boat disappeared. It is reported that a group of local fisherfolks went to look for their relatives the day

after the boat disappeared in the absence of action by the Coast Guard. Close to Trinidad and Tobago, they allegedly found the body of a girl who had drowned. Three men and four women were found alive in the wreck and two girls of 16 and 17 years old, were later also found alive on an island near Trinidad and Tobago, called Isla del Pato.

The survivors reported that, before reaching their final destination, the Captain of the boat turned off the engine, that the waves were very strong and that the boat capsized. They also recounted that speedboats and jet skis driven by persons speaking English allegedly came from Trinidad and Tobago to pick up 13 women and 6 girl children and abducted them. Two of them were subsequently allegedly abandoned on the Isla del Pato. On 25 April 2019, the day after the disappearance of the boat, Venezuelan authorities allegedly provided support with a search plane and a helicopter, but no one was found except for the nine people already rescued by local fisherfolks.

Nine people have allegedly been charged for criminal association. Relatives of the victims reported that the hearings have been suspended at least five times and that none of them has had access to the file on the status of the investigation, despite several official requests to receive information from the Venezuelan authorities. Moreover, the relatives stated that, more than a year after the disappearance of the boat, the investigation has not led to any result and no response has been given to their requests to start searching for their relatives.

2) Boat Ana María

On 16 May 2019, a cargo ship named "Ana María" bound for Trinidad and Tobago from Güiria, Sucre State (Venezuela) reportedly disappeared. Thirty-four people, excluding the captain of the ship, had boarded the ship, all of whom are missing: two boys, two girls, nine women (one of whom was pregnant) and 21 men. The ship allegedly sailed without registering any passengers. It is reported that the boat never reached its destination.

On 21 May, the relatives of the thirty-four people on board the "Ana María" filed a complaint with the Public Prosecutor's Office in Caracas, Venezuela. Searches have been undertaken since then by the relatives, with the support of local fisherfolks.

According to information received, a person known as "el Moncho" allegedly charged each passenger in Venezuela US\$ 300 to take them in an irregular way to Trinidad and Tobago. They also described the existence of criminal networks dedicated to trafficking in persons for labour and sexual exploitation that operate both in Venezuelan and Trinidad and Tobago. Labour exploitation allegedly occurs mainly in the domestic service sector, while sexual exploitation occurs mainly in bars and hotels in Trinidad and Tobago.

Moreover, the women who disappeared were allegedly recruited by two women (one in Venezuela and one in Trinidad and Tobago) and by the captain of the “Ana María” in Venezuela and had been offered work in hotels or hairdressing salons in Trinidad and Tobago. The captain allegedly sent photos of Venezuelan women to the two recruiters so they could identify the women that they intended to traffic. It is reported that there was connivance of public officials in the recruitment of these women who were placed in a hotel a few days before departure and then sent to the boat bound for Trinidad, where they were allegedly met by the woman in charge of recruitment in Trinidad and Tobago.

On several occasions, relatives of the missing persons have contacted the Embassy of Trinidad and Tobago in Caracas (Venezuela), but they were allegedly not provided with information on whether any investigation was being undertaken into these incidents.

While we do not wish to prejudge the accuracy of this information, we would like to express our deepest concern about the disappearance of 58 Venezuelan migrants who were on board of the two boats bound for Trinidad and Tobago. We are also particularly alarmed by the smuggling and trafficking in human beings from Venezuela to Trinidad and Tobago, as well as the existence of consolidated human trafficking networks for labour and sexual exploitation in this region, which could amount, under certain circumstances, to forced labour and sexual slavery. Moreover, we are alarmed by the country’s criminalization of irregular migration, which results in people in vulnerable situations taking dangerous migration routes and therefore, exposes them to the risk of being trafficked.

Finally, we express concern, that family members of the 58 disappeared persons contacted the Embassy of Trinidad and Tobago in Caracas on several occasions, seeking assistance in relation to the disappearance of their relatives, but have still not been provided with information on the whereabouts of their family members, the status of any possible criminal investigation or any cooperation with Venezuelan authorities into trafficking in persons.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide information regarding any search operation that may have been conducted to find out the whereabouts of the missing persons; and its results.
3. Please indicate what measures are being taken by your Excellency's Government to combat trafficking in persons and to regulate and monitor private recruitment agencies.
4. Please provide information on measures to strengthen cooperation between Venezuelan judicial authorities and your Excellency's Government in cross-border trafficking cases.
5. Please specify what measures are being taken by your Excellency's Government to establish safe and legal migration channels and ensure that migrants have access to the regular labour market.
6. Please provide information on the number of people prosecuted under the 2011 Trafficking of Persons Act.
7. Please provide information on the identification procedures of victims of trafficking, as well as procedures to ensure non-punishment of victims of trafficking, access to justice, redress, reintegration and long-term social inclusion measures for victims of trafficking.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent the re-occurrence of these violations and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible and/or involved in trafficking in persons

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Siobhán Mullally
Special Rapporteur on trafficking in persons, especially women and children

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Felipe González Morales
Special Rapporteur on the human rights of migrants

Mama Fatima Singhateh
Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material

Tomoya Obokata
Special Rapporteur on contemporary forms of slavery, including its causes and consequences

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex
Reference to international human rights law

In relation to the allegations, we would like to draw your Excellency's Government's attention to the obligations set out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime, which Trinidad and Tobago ratified on 6 November 2007.

The Palermo Protocol requires that States Parties shall establish policies, programmes and other measures to prevent and combat trafficking in persons.

Article 9.4 provides that States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to address the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

Article 10 obliges law enforcement, immigration or other relevant authorities of States Parties to cooperate with one another by exchanging information, to enable them to determine:

- (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
- (b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
- (c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

According to the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, states have an international obligation not only to identify traffickers but also to identify victims of trafficking. In the Commentary of the Recommended Principles, it is noted that:

"If a person who has been trafficked is not identified at all, or is incorrectly identified as a criminal or as an irregular or clandestine migrant, this will directly affect that person's ability to enjoy his or her rights." (p.73)

Identification is possible when a relationship of trust has been created that allows victims to share a traumatic experience. Therefore, specialised and confidential identification procedures need to be established in arrival areas, in cooperation with civil society organizations, in order to ensure respect for the rights of victims of trafficking

(A/HRC/38/45) and to identify vulnerabilities and protection needs, including, but not limited to those of victims of trafficking.

The 1982 United Nations Convention on the Law of the Sea provides in Article 98 (1) that every State has the duty:

- (a) to render assistance to any person found at sea in danger of being lost;
- (b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him.

We wish to remind your Excellency's Government that Article 98 (1) is a norm of customary law; that it applies to all sea areas and all persons in distress, without discrimination; and that it applies to all ships, including private ships. Similar obligations are specified in the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention on Maritime Search and Rescue (SAR).

The International Covenant on Civil and Political Rights, ratified by Trinidad and Tobago on 21 December 1978, in relation to articles 6 (1), 7, 9, obliges States to guarantee the right to life, the right not to be subjected to torture or other ill-treatment, and the right to liberty and security of person, respectively. Article 8 ICCPR prohibits slavery and the slave-trade in all their forms, servitude and forced or compulsory labour, and requires States Parties to take measures to eliminate trafficking of women and children, within the country or across borders, and forced prostitution. (General Comment no.28 HRI/GEN/1/Rev.9 (Vol. I), para. 12)

The UN Committee on the Rights of the Child, in its Joint General Comment with the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, has reiterated that in all actions concerning children, including in the context of international migration, States should be guided by the overarching principles of non-discrimination (art. 2); the best interests of the child (art. 3); the right to life, survival and development (art. 6); and the right of the child to express his or her views in all matters affecting him or her, and to have those views taken into account (art. 12). (CMW/C/GC/3-CRC/C/GC/22 5, para. 19). They also note that States should, “take all necessary measures to prevent and combat the illicit transfer and non-return of children as well as the worst forms of child labour, including all forms of slavery, commercial sexual exploitation, the use of children for illicit activities, including begging, and hazardous work, and protect them from violence and economic exploitation.” Further the Committees highlight that girls may be even more vulnerable to trafficking, especially for purposes of sexual exploitation and that gender-specific risks and vulnerabilities should be identified and specifically addressed by States.

The Convention on the Rights of the Child, ratified on 5 December 1991, requires States Parties to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form (article 35).

The International Labour Organization (ILO) Worst Forms of Child Labour Convention (Convention No. 182 of 1999), ratified on 23 April 2003, prohibits all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, as well as the use, procuring or offering of all children for the purpose of prostitution.

The Convention on the Elimination of All Forms of Discrimination against Women, ratified on 12 January 1990, recognizes that trafficking constitutes a violation of human rights and establishes State obligations in this regard (art. 6).

In General Recommendation no.33 on women's access to justice, the Committee on the Elimination of Discrimination against Women, highlighted the failures of law enforcement officials to act with due diligence to investigate, prosecute and punish perpetrators and/or provide remedies to women experiencing compounded or intersecting forms of discrimination due inter alia to race / ethnicity, national origin or to experiences of trafficking or migration

The Recommended Principles and Guidelines on Human Rights and Human Trafficking refer to access to reparation measures, while the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law detail the various forms of reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

The UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment has noted:

“[...] whenever States fail to exercise due diligence to protect trafficking victims from the actions of private actors, punish perpetrators or provide remedies, they are acquiescent or complicit in torture or ill-treatment (A/HRC/26/18).”

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women – ‘Convention of Belém do Pará’ –, which your Excellency's government ratified on 4 January 1996, includes trafficking in persons within the definition of violence against women (Article 2).

The Inter-American Declaration against Trafficking in Persons (Declaration do Brasília), stresses the need for states to prevent trafficking in persons by:

“[...] designing, improving, and implementing public policies that address social, economic, cultural, security and migration-related variables that adversely affect women”. (Article 2)

Further, the Declaration calls on states to strengthen:

“[...] national systems of criminal justice, criminal prosecution of perpetrators, and comprehensive assistance for victims, including victim and witness protections and guarantees, under an unwavering approach of respect for and protection of their human rights.” (Article 4)