



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for the Human Rights Council 4<sup>th</sup> Session

### Reports of The Special Rapporteur on the sale of children, child prostitution and child pornography<sup>1</sup>

#### **Name of Mandate Holder**

Juan Miguel Petit

#### **Mandate**

The mandate was established in accordance with the Commission on Human Rights' decision 2005/44. The role of the Special Rapporteur is to investigate the exploitation of children in forms of sale of children, child prostitution and child pornography around the world and to submit reports on the findings to the General Assembly and the Commission on Human Rights, and to make recommendations for the protection of the rights of the children concerned.

#### **Activities**

- Annual Report;
- Communications to governments and responses received;
- The Special Rapporteur addressed the Human Rights Council during its second session on 22 September, presenting his annual mission and reports, and held an interactive dialogue between concerned countries, member and observer states and NGOs;
- Mission to Ukraine.

#### **Annual Report<sup>2</sup>**

##### **Scope:**

The report focuses on developments in relation to the mandate in the last year. This includes developments in international and regional strategies that have been developed to combat violations of child rights.

##### **Summary and key conclusions:**

- The Special Rapporteur expressed satisfaction that 10 countries<sup>3</sup> ratified the Optional Protocol to the *Convention on the Rights of the Child* on the sale of children, child prostitution and child pornography in 2006.
- At the regional level, Governments of West and Central African States signed a multilateral agreement and regional plan of action to fight trafficking in persons.

---

<sup>1</sup> Summaries prepared by Jumi Rahayu, Intern, ISHR. Edited by Rami Chalabi, Intern, ISHR, and Gareth Sweeney, Information Program, ISHR.

<sup>2</sup> A/HRC/4/31, 26 December 2006, available at <http://www.ohchr.org/english/bodies/hrcouncil/4session/docs/A-HRC-4-31.doc>

<sup>3</sup> Algeria, Belgium, Burkina Faso, Cyprus, the Lao People's Democratic Republic, Latvia, Nepal, Sri Lanka, Switzerland and Thailand.

- The world report of the Special Representative on violence against children gave a global picture of violence against children and recommendations to prevent and respond to the issue. The Special Rapporteur is of the view that the report will strengthen the efforts and progress already realized on the subject. The report will also ameliorate data collection on violence occurring because of the sale of children, child prostitution and child pornography.
- Although there were a lot of reports of the sale of children's tissues and organs for the purpose of genetic research, religious or magic rituals, and transplantation, the Rapporteur found that the issue remains unsubstantiated in most cases.
- The Special Rapporteur considers that disappearances and abduction often constitutes the first step in abuses against children that can lead to sexual exploitation. The number of States that have set up organized and effective systems to respond to children abductions is very limited.

### **Key recommendations:**

On the sale of organs, the Special Rapporteur recommends that all countries:

- Establish legislation and standards to clearly regulate transplantation of organs and tissues, and an effective information network that investigates, documents and monitors allegations of traffic of organs and tissues, as well as ensure bilateral, regional and international cooperation between the law-enforcement agencies in charge of the fight against this traffic.
- Establish a centralized transplant agency in charge of coordinating receivers' needs and donors' situation, establishing transparent and equitable waiting lists for each category of organs, regions and all age groups; however the agency must also prohibit the sale of one's organs and tissues so as to eradicate demand for this traffic as well as to penalize heavily those who do so.
- Ensure that all children under the age of 18 are protected from becoming donors of organ and tissue transplantation, except in cases where an immediate family member is at a life-threatening risk, that no suitable donor has been found, that the donor's consent has been given, that this transplant will not cause a threat, immediate or future, to the donor and that this transplant will bring substantial health improvement to the receiver.
- Ensure that criminal proceedings against sellers, intermediaries and traffickers are initiated promptly and can be initiated ex officio.

On the question of rapid response programs, the Special Rapporteur recommends that all States set up rapid-response programmes and to specifically:

- Incorporate in their national legislation provisions criminalizing abduction, and provide stricter penalties or aggravated circumstances in cases where victims are children.
- Establish a central institution consisting of operational centres, based on a public-private partnership model and established with the support of the national Government.
- Develop awareness-raising campaigns among all stake holders with the emphasis on law enforcement officials, and to children through the school curriculum.

### **Mission to Ukraine<sup>4</sup>**

#### **Scope**

The Special Rapporteur visited Ukraine from 22 to 27 October 2006 to address issues of child trafficking, child prostitution and vulnerable children at risk. His visit focused on Kiev and surrounding areas. He had over 40 meetings and direct contact with more than 100 persons.

---

<sup>4</sup> A/HRC/4/31/Add.2, 24 January 2007 available at <http://www.ohchr.org/english/bodies/hrcouncil/docs/4session/A.HRC.431.Add2.pdf>

### **Key conclusions:**

- Although Ukraine have established a series of laws and provisions on children's rights, a number of national action plans and programmes which represent road maps for the implementation of policies on children's rights, the slow progress made in reforming the social protection system leaves many children and adolescents vulnerable to trafficking and prostitution.
- A high number of persons leave the country for better prospects, resulting in vulnerability to trafficking and sexual exploitation, especially for children from dysfunctional and poor families with a low level of education, street children, victims of sexual abuse and domestic violence, children in institutions or who recently left institutions.
- Corruption is a problem at all levels of public administration and undermines the enforcement of the law, the delivery of social services and the overall capacity of the State to prevent and redress human rights violations.
- The lack of a coherent adoption policy, whether at the domestic or international level, remains a challenge for the country.

### **Key recommendations:**

- The Government must generate policies and initiatives in order to allow civil society and international organizations, including the UN country team, to contribute and become involved in the protection of children and minors. A system should also be developed to monitor standards of care provided by social services.
- Policies and programmes to fight trafficking and sexual exploitation must address the root causes of the phenomenon, such as social exclusion, discrimination and stigmatization.
- Curriculum of primary and secondary schools should pay attention to the issues of trafficking from a global human rights perspective.
- There is a need to establish a separate justice system for minors in conformity with international standards, not only when they are in conflict with the law, but also when they testify as witnesses in cases involving child trafficking, prostitution or pornography. He also recommends setting up separate detention facilities (police stations, pre-trial investigation centres and remand facilities).
- Create a high-level independent institution, such as a National Commission on Children, Youth and Family, dealing specifically with enforcing children's rights and public policies with regard to children.<sup>5</sup> This is also to overcome the existing condition of multiplicity of public actors involved in providing assistance and care to children that leads to situations where competence and responsibilities jeopardize their ultimate goal because of the limitations of their mandates and for fear of intervening in the mandates and responsibilities of others.
- Ukraine should ratify all related international human rights instruments. National legislation must also officially decriminalize prostitution and define the age of sexual consent, and clearly define the crimes of child pornography.
- Children should be allowed to file complaints of abuse without parental consent. There is also a need to improve procedures related to legal guardianship when families are involved in the trafficking of their children.
- On trafficking of children: The Government should adopt a law on clear and accessible procedures enabling victims of trafficking to get compensation. Ukraine must also continue to conclude bilateral agreements on anti-trafficking measures with destination countries, especially with the Russian Federation and with which there are no bilateral agreements.

---

<sup>5</sup> This is in line with the United Nations Committee on the Rights of the Child Concluding observations on State Party Report by Ukraine, CRC/C/15/Add.191, 2002.

- National toll-free telephone lines should be accessible everywhere to report complaints and cases of trafficking in children or disappearances, and to offer children assistance in all confidentiality.
- Alternatives to placement in orphanages and shelters must be sought whenever possible for children who find themselves in vulnerable and disadvantaged situations. The establishment of a deinstitutionalization commission would be a welcomed alternative and would be able to look individually at the options and needs for every child deprived of a family environment.