



International Service for Human Rights

The Reports in Short

ISHR's summaries of documents for the UN Commission on Human Rights
62nd Session and Human Rights Council 2nd Session

The Special Rapporteur on the sale of children, child prostitution and child pornography¹

Mandate holder

Juan Miguel Petit

Mandate

The mandate was established in 1990² to investigate the exploitation of children around the world and to submit reports on the findings to the General Assembly and the Commission on Human Rights, making recommendations for the protection of the rights of the children concerned targeted primarily at Governments, other United Nations bodies and non-governmental organizations.

Activities

- The Special Rapporteur attended numerous conferences and consultations, including the Latin American Regional Consultation for the UN study on violence against children; the Child Pornography Forum; and the United States-European Union Summit on Missing and Exploited Children. The latter produced a 17-point action plan³.
- The Special Rapporteur was invited by the Government of Chile to participate in various activities organised at the State level on the subject of child and adolescent prostitution and pornography, sex tourism and trafficking in children for sexual exploitation.
- As a follow up to his last report, which focused on child pornography on the internet, the Special Rapporteur publicly expressed his support for the make-IT-safe campaign launched by the End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes.
- The Special Rapporteur published a letter in the Economist stressing the need to ensure that online payments can always be traced to their sources.
- The Special Rapporteur also sent a joint letter with the Special Rapporteur on trafficking in persons to the President of the World Summit on the Information Society expressing disappointment at the absence of issues of sexual exploitation of children at the Tunis phase of the Summit.
- Mission to Albania
- Mission to Greece

Annual report⁴

Scope

The report outlines the activities of the Special Rapporteur as well as the main developments in relation to the mandate and provides an analysis of the demand factor in the commercial sexual exploitation of children based on information received from 28 governments, international organisations, non-governmental organisations and individuals in response to a questionnaire sent jointly with the Special Rapporteur on trafficking in persons.

Summary and key conclusions

¹ Summaries prepared by Cléa Thouin, Intern, ISHR.

² Commission Resolution 1990/68.

³ Pp.3-4.

⁴ E/CN.4/2006/67, 12 January 2006.

Recent developments:

- 10 more countries have ratified the *Optional Protocol on the sale of children, child prostitution and child pornography* (the Optional Protocol) in 2005; the Council of Europe adopted the Convention on Action against Trafficking in Human Beings; 9 countries signed a multilateral agreement to combat child trafficking in West Africa; Sierra Leone passed an Anti-Human Trafficking Act; Paraguay adopted a law criminalizing the production, distribution and possession of child pornography; and there were numerous initiatives over 2005 to fight child sex tourism, notably in Japan, France, Kenya and by South-East Asian Nations.

Demand for sexual services deriving from exploitation

- There is still no shared understanding of what constitutes **demand for exploitation**, and how best to address it. Respondents to the questionnaire shared a common understanding that sexual services involving children constituted exploitation but produced divergent understandings of the sexual exploitation of adults, with some of them, such as Germany and the Netherlands, distinguishing between voluntary and forced sexual services.
- There is still not enough **empirical research** on clients of sexual services and their attitudes towards exploitative behaviour, but it is established that demand for the sexual exploitation of children comes overwhelmingly from **males**, mainly “situational offenders”, who do not have a distinct preference for children but may use a situation or opportunity to sexually exploit an accessible child.
- Respondents pointed out a number of **factors that cause or create demand for sexually exploitative services**, such as a culture of social and legal impunity, resulting from an implementation gap. Some argued that demand for sexual exploitation and men’s demand for prostitution in general are inextricably linked, either because they thought that prostitution was never a free choice or because they saw, like the USA, the legalisation of prostitution as increasing demand for all forms of prostitution.
- Many of the respondent’s comments underlined that commercial sexual exploitation has to be understood in the wider context of **restrictive migration policies** coupled with **demand for cheap labour**. Research indicates that price is an important consideration for sex buyers, creating a lucrative market for traffickers.
- Some authors, such as June Kane, have suggested that the focus should be widened to include the **traffickers’ and employers’ demand for profits** through the forced labour of victims.
- Both States and NGOs highlight that **discriminatory attitudes** on the basis on race, ethnicity, colour, social status or gender contribute to demand for sexual exploitation by defining a person as “exploitable”.
- Several respondents confirmed that the influx of international aid workers, military personnel and peacekeepers in a **situation of armed conflict** or **political instability** often brought about a demand for services deriving from sexual exploitation, often met through trafficking and coercion. It is now also recognised that systematic and organised violence against women is used as a **strategy of armed conflict**.
- With regard to **strategies to reduce or eradicate demand**, respondents focused on micro-level strategies aiming at influencing the conduct of clients and the population through sanctions rather than adopting policies addressing overarching economic factors.
- The penal law of some States, such as Honduras, Japan, and the USA, already reflects the norms of the Optional Protocol by considering any solicitation of prostitution involving persons under the age of 18 to be an act of exploitation, while other States, including Chile and Germany, still link norms against child prostitution with the general age of sexual consent. A number of States have also adopted laws against their citizens having sex with minors abroad. The sanctions aimed at clients of sexual services deriving from the sexual exploitation of adults were varied⁵.
- All responding States, including Angola, Chile, El Salvador, Kazakhstan and Lebanon provided information on **campaigns** against the sexual exploitation of adults and/or children directed at the population at large but only a few States, including Germany, Switzerland, the USA, and the Republic of Korea, reported projects targeted more directly at clients of sexual exploitation.
- Many respondents referred to the role of the **Internet** in increasing demand for sexual exploitation, but the Special Rapporteur emphasised that the Internet also opens opportunities to educate potential clients.
- Some respondents pointed out that demand for sexual exploitation should be addressed on the same footing as demand for **economic exploitation**. Commercial sexual exploitation is often related to forced labour as the shortage of locals willing to fill the “3-D” jobs (dirty, degrading and dangerous), and the absence of organised migration programs for low-skilled persons increase the vulnerability of migrants to be trafficked into economic and/or sexual exploitation.

⁵ Pp.15-16.

Key recommendations

- States adopting or amending their legislation in regard to child sexual exploitation should bear in mind that **persons in prostitution should never be penalised** and that **child sexual exploitation must be criminalised**.

States should:

- Consider signing Mutual Legal Assistance in Criminal Matters treaties.
- Not only punish the offenders themselves but the **whole chain of those actually or potentially involved**.
- Ensure that **child sex exploiters are punished through effective law enforcement**. States should also develop sex-offender treatment programs.
- Ensure that all children under the age of 18 are **protected from commercial sexual exploitation by the law**.
- Develop **awareness-raising campaigns** and ensure that the school curriculum includes child rights education that addresses themes of sexuality, power and gender relations.
- Establish clear codes of conduct for **military personnel** that protect the physical security of women and children, pass and enforce laws holding soldiers criminally responsible for trafficking and/or engaging in sexual activities with children and create a mandatory educational and training program on human trafficking, gender equality, and the effects of buying women and children for sex for military and UN personnel.

Communications to and from Governments⁶

Scope

The report contains summaries, on a case-by-case basis, of general and individuals allegations as well as urgent appeals transmitted to Governments between 1 January and 31 December 2005, replies received during the same period, and observations made by the Special Rapporteur.

Summary and key conclusions

Please note that countries that have replied to current or previous communications are marked with an asterix.

- The Special Rapporteur transmitted 34 communications to the Governments of 25 countries: Bahrain, Bangladesh*, Canada*, Chad, Chile*, Democratic Republic of the Congo, Dominican Republic, Greece*, Guatemala*, India, Indonesia, Iraq, Iran, Israel, Kuwait*, Malawi, Mexico*, Myanmar, Nepal, Niger, Pakistan*, Saudi Arabia, Sri Lanka, Sudan, Syrian Arab Republic, United Arab Emirates*, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen, and Occupied Palestinian Territory.
- The Special Rapporteur received four responses to these communications, as well as six replies to communications transmitted over the past years.

Mission to Albania⁷

Scope

The report concerns a mission to Albania from 31 October to 7 November 2005, during which the Special Rapporteur met representatives of the Government; the Parliament; the judiciary; local authorities; the police; international organisations; donors; the media; and non-governmental organisations (NGOs). The Special Rapporteur also visited shelters, schools and programs delivering social services to children.

Summary and key conclusions

- Albania is a source country for persons trafficked for the purpose of **sexual exploitation** and **forced labour**. This phenomenon is an **expression of unsolved socio-economic problems**, including poverty, lack of opportunities for development, lack of social services, stigmatised minorities, discriminatory practices towards women, and insufficient educational systems.

⁶ E/CN.4/2006/67/Add.1, 27 March 2006.

⁷ E/CN.4/2006/67/Add.2, 27 March 2006.

- The Government started addressing the issue of trafficking in 2001, adopting the National Strategy against Trafficking in Human Beings and establishing a governmental Department of Trafficking and a National Steering Committee on Child Labour.
- Despite there appearing to be a **growing internal prostitution market**, there is a lack or limited acknowledgement of the existence of the problems of sexual exploitation and internal trafficking.
- The prevailing form of exploitation of children trafficked to Greece used to be begging. The transformation to a market economy in Albania generated a large shadow economy in which child labour is largely used, but in recent years, trends indicate a **decline in children who fall victim to trafficking**.
- Many children are trafficked with some form of consent of their parents and family. Child victims of trafficking tend to come from families with a poor economic level, lack of adequate housing, a high rate of unemployment and lack of school attendance. Many also come from the Roma and Egyptian communities.
- In recent years, there seems to have been a **decrease of emigration** due to the increase of border control, the fight against trafficking, improvement in social-economic and political conditions. Despite this, children still grow up in an environment that sees migration as the solution to economic and social difficulties, and there is a large tendency for unaccompanied minors to migrate.
- The Special Rapporteur was concerned at the situation of **unaccompanied children who are returned to Albania from Greece** as the lack of or limited collaboration from the Greek police makes it more difficult to activate the protection and assistance services that NGOs can provide.
- **Domestic violence** is still a taboo in Albanian society and remains underreported. Furthermore, there is a gap in the legislation to report domestic violence as children need parental consent to file a complaint.
- Albania has made **several achievements** in the area of child trafficking: the legislative institutional and policy frameworks are in place; the police are better trained to deal with this crime; border control has improved; the establishment of the Court of Serious Crimes and the Prosecutors' Office for Serious crimes increased the prosecution capacity; a national reception centre for victims has been established; the Government appointed a high-level focal point on trafficking; and non-governmental organisations have gained valuable expertise in providing social services to communities.
- The crime of trafficking in human beings was introduced in the **Criminal Code** in 2001, which already prohibits prostitution but lacks a definition of the crimes of sale of children and child pornography.
- Since 2001, **several experiences in counter-trafficking** have been developed, such as shelters managed by NGOs and that offer rehabilitation and reintegration programs. These programs are very difficult to implement, because of the lack of an institutionalised support system and chronic unemployment.
- Many **challenges** remain: achievements have been mainly in the area of border control and prosecution capacity, but far less in prevention and reintegration of victims. Internal trafficking and child sexual exploitation remain largely un-addressed but are the root causes of trafficking and exploitation.

Key recommendations

- The Government should prioritise and harmonise the implementation of the **national strategy on children** and on **combating child trafficking** and establish a **monitoring system** in that respect.
- The Government should **set up a national institution to protect the rights of the child**.
- The Government should **implement social policies** that serve as a protection net for children, in areas such as education, prevention of violence and support to families, supported by specialised social workers.
- The Government should ratify the **Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography** and the **International Convention on the Protection of the Rights of All Migrant Workers and Their Families**.
- The Government should consider the possibility of **decriminalising prostitution** as a crime for which prostitutes can be sentenced and should **define the crimes of the sale of children and child pornography**.
- Albania should sign and implement the **bilateral agreement with Greece** on the return of unaccompanied minors and take measures in line with the **CRC's general comment on the treatment of unaccompanied and separated children outside their country of origin**.

• Mission to Greece⁸

Scope

The report concerns a mission to Greece from 8 to 15 November 2005, during which the Special Rapporteur

⁸ E/CN.4/2006/67/Add.3, 27 March 2006.

held meetings with the Minister of Justice and other representatives of the Government; the Deputy Ombudsman for Children's Rights; representatives of the Parliament and the National Commission for Human Rights; judges; prosecutors; the police; non-governmental organisations (NGOs); and UN agencies. The Special Rapporteur also visited a detention centre for irregular migrants, as well as a Roma settlement.

Summary and key conclusions

- Over the last 15 years, Greece has increasingly become a country of transit and destination for migrants, but also for trafficking in human beings.
- During the 1990s, thousands of **children** were **working or begging** in all the major cities, but this number has considerably **decreased over the past few years**. This could partly be due to the adaptability of the criminal network employing children, and it is feared that children may have been assimilated into more underground forms of exploitation, such as prostitution or drugs.
- Greece has made **significant progress in combating child trafficking and exploitation**, notably through ratification of relevant international instruments.
- It also adopted a **comprehensive legislative framework** to combat child trafficking and exploitation in 2002, providing for more severe penalisation of these crimes. This law also provided for a victim assistance mechanism, which contains specific provisions for child victims of trafficking.
- The government has set up an **institutional framework to implement laws against trafficking**, the Inter-Ministerial Committee on Human Trafficking, which has adopted a National Action Plan. This notably provides for the creation of shelters, granting of residence permits and the creation of a national database.
- **Challenges** remain, notably because of the **lack of centralised and institutionalised child protection system**, with only one specialised institution for unaccompanied children in the whole country.
- The relationship between the Government and **NGOs** is distant, but is slowly improving, notably through the establishment of a permanent forum for exchange of views and information.
- Adequate **structures for unaccompanied minors** are lacking and it is claimed that these continue to be treated as adult irregular migrants. In deportation procedures, there is concern that children are not sufficiently aware of their rights and the lack of a proper system to detect minor victims of trafficking and exploitation in place means that child victims continue to be arrested, detained and deported with adults.
- There are also **positive experiences**, such as the Anogeia Centre for unaccompanied minors; cooperation between Greek and Albanian governmental and civil society partners in Thessaloniki; the guidelines for the management of separated children seeking asylum in Greece issued by the Deputy Ombudsman; and the 2006 Agreement with Albania for the protection and assistance of child victims of trafficking.
- **Other problems** include the lack of specific legislation on domestic violence; the widespread practice of corporal punishment of children in schools; persistent discrimination against children of the Roma community exposing them to the risk of exploitation; and practices of early marriage and marriage by proxy in Muslim communities.

Key recommendations

- The Government should ratify the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, the *Optional Protocol to the Convention on the Rights of the Child 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*.
- The Government should fully implement the **bilateral agreement with Albania** concerning children victims of trafficking and strengthen the **protection of newly-arrived minors**, notably by adopting the guidelines on the treatment of separated children seeking asylum issued by the Deputy Ombudsman.
- The Government should set up **clear rules and standards for identifying victims of child trafficking**.
- The authorities should **end the detention of alien minors for illegal entry into the country** and refer the children to specialised institutions.
- The Government should establish a **more efficient and cooperative relationship with NGOs**.
- The Government should **prohibit all forms of violence against children** wherever it occurs, including corporal punishment in schools.
- The Government should establish an **overarching coordinating institutional body for child protection**.