

SUPPLEMENTARY HUMAN DIMENSION MEETING
ON COMBATING SEXUAL EXPLOITATION
OF CHILDREN

18-19 October 2007
HOFBURG, VIENNA

ANNOTATED AGENDA

Commercial sexual exploitation of children is not a new phenomenon. It manifests itself in a variety of settings represented by instances of children held in captivity and subjected to rape whilst in other cases children unrestricted in their freedom of movement but seemingly making choices to earn money through commercial sex. New communication technologies, such as the internet, have also been seen to be associated with an increased risk of sexual exploitation of children including through the production and distribution of child pornography.¹

Over the last two decades, the international community has intensified the fight against the sexual exploitation of children. The adoption of the Convention on the Rights of the Child² by the United Nations General Assembly in 1989 and its entry into force in September 1990 represented an important landmark in the protection of child rights. The Convention calls on governments to protect children against all forms of sexual exploitation and abuse and to ensure that all measures possible are taken to ensure that children are not abducted, trafficked or sold.³ In 1999, the General Conference of the International Labour Organization adopted the Worst Forms of Child Labour Convention (ILO Convention No. 182) and the Worst Forms of Child Labour Recommendation (ILO Recommendation No. 190).⁴

In 2000, the UN General Assembly adopted the Optional Protocol on the sale of children, child prostitution and child pornography⁵ and the Protocol to Prevent,

¹ See the Secretary General's report on Violence against Children, October 2006, UNGA A/61/299 at para 77.

² Thereinafter CRC.

³ See CRC Articles 34 and 35.

⁴ The term "worst forms of child labour" includes amongst others the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances (Art. 3b). For Convention No 182 and Recommendation No. 190 see www.ilocarib.org.tt/childlabour/legislation.htm

⁵ See A/RES/54/263 of 25 May 2000. The Optional Protocol entered into force on 18 January 2002. The Optional Protocol draws special attention to the criminalization of these serious violations of children's rights and emphasizes the importance of fostering

Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime⁶. In 2001, the Council of Europe adopted the Convention on Cybercrime which includes action against child pornography on the internet. Finally, in July this year, the Committee of Ministers of the Council of Europe adopted the Convention on the Protection of children against sexual exploitation and abuse.⁷

OSCE commitments relevant to combating sexual exploitation of children date back to Copenhagen 1990 when participating States decided to accord particular attention to the recognition of the rights of the child, including their right to special protection against all forms of violence and exploitation.⁸ In 1999 in Istanbul the OSCE participating States agreed in the Charter for European Security to prevent violence against children, sexual exploitation and trafficking, through, amongst others, the adoption or strengthening of legislation to hold accountable persons responsible for such acts and through the strengthening of protection for victims.

In the Action Plan to Combat Trafficking in Human Beings (Maastricht 2003), participating States agreed to give special attention to the issue of trafficking in children, including for the purpose of sexual exploitation, and to recognize the particular vulnerability of unaccompanied children.⁹ In Sofia, the Ministerial Council encouraged participating States to counter factors which contribute to making children particularly vulnerable to trafficking in human beings, including discrimination, exploitation, poverty, lack of education and displacement. It also agreed to strengthen addressing demand, including combating child sex tourism. Finally it tasked the Permanent Council to elaborate an addendum to the OSCE Action Plan to Combat Trafficking in Human Beings on addressing the special needs of child victims of trafficking for protection and assistance.¹⁰ The Addendum was adopted by the Permanent Council in July 2005 and endorsed by the Ministerial Council in December 2005 in Ljubljana.¹¹ Amongst others, it calls for effective national policies and programmes to prevent trafficking in children, and reducing children's vulnerability by promoting a protective environment in general through strengthening relevant institutions and regulations, reducing poverty and preventing violence against children.¹² Importantly, last year's Ministerial Council in Brussels adopted a decision on Combating Sexual Exploitation of Children.¹³

While condemning sexual exploitation of children in all its forms, the Brussels Ministerial Council Decision makes particular reference to forms of commercial sexual

increased public awareness and international cooperation in efforts to combat them. Importantly, the Optional Protocol is interpreted in light of the original treaty and thus guided by the principles of non-discrimination, best interests of the child and child participation.

⁶ The Protocol entered into force on December 25 2003.

⁷ Adopted by the Committee of Ministers 12th July 2007. It will be opened for signature at the 28th conference for European Ministers of Justice, Lanzarote, 25-26 October 2007.

⁸ See Document of the Copenhagen meeting of the Conference of the Human Dimension of the CSCE. www.osce.org/documents/odhr/1990/06/13992_en.pdf

⁹ See MC.DEC/2/03

¹⁰ See MC.DEC/13/04

¹¹ See MC.DEC/13/05.

¹² See paragraph 2.

¹³ See MC.DEC/15/06

exploitation of children (CSEC), ie child prostitution, child pornography and trafficking of children for sexual exploitation (para 1). It calls on States to conform their legislation to international commitments and obligations (para 2) and urges them to take a holistic approach to addressing root causes and contributing factors by developing comprehensive measures to prevent sexual exploitation of children (para 3). It also calls on participating States to facilitate the legal protection, care and rehabilitation of child victims (para 6) alongside urging increased co-operation among participating States for the detection, investigation, prosecution and punishment of those responsible for the sexual exploitation of children (para 10).

Practice shows however that despite many commitments undertaken at the national and international level, implementation is often inadequate and governments face serious challenges in transforming commitments into sustainable action.¹⁴ This Meeting therefore provides an opportunity to raise and review key issues and challenges in tackling commercial sexual exploitation of children. Strengthened international co-operation and exchange of information between States and with international organizations and civil society organisations working on these issues is crucial. Such exchange and cooperation is reflected in the preparation of this meeting which benefited from the valuable contributions of key child rights stakeholders, including ECPAT (End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes), the International Centre for Missing and Exploited Children (ICMEC), the regional programmes of Save the Children and Terre des Hommes, UNICEF and the International Programme on the Elimination of Child Labor of the ILO (ILO-IPEC) and a number of local non-governmental and civil society actors from the OSCE region.

The meeting is divided into three working sessions. Working session I focuses on understanding and addressing vulnerability to exploitation, emphasizing the importance of preventive measures including adequate child protection systems and social welfare. A discussion of adequate legal frameworks, including criminalizing offences and prosecuting perpetrators and adequate laws and policies related to social, educational and labour issues follows in working session II. Finally, working session III is devoted to consideration of responses to the sexual exploitation of children and will provide an opportunity for participating States and civil society to share lessons and good practices on protective and preventive measures.

Session I: Understanding and addressing vulnerability to exploitation

A number of structural, cultural and individual factors make children vulnerable to sexual exploitation. Frequently the same factors make children vulnerable to other forms of exploitation too. Crisis situations in the sense of economic, social, or political instability compound these risks as human security becomes more precarious. Session I explores the key factors that make children vulnerable to exploitation, particularly commercial sexual exploitation. This session will provide the basis for discussing adequate responses, with a focus on law enforcement and targeted and adequate child care policies and structures on day 2 of the meeting.

¹⁴ With particular focus on action against commercial sexual exploitation see the ILO/UNICEF/Work Bank study on The Assessment of Commercial Sexual Exploitation of Children: A review of Methodologies, Understanding Children's Work (UCW) Project, 2003.

Vulnerability often stems from children's need for survival strategies due to poor access to education and care and social and economic marginalization which in turn results from their exposure to poverty and discrimination. Traditional harmful practices within particular communities such as those that result in girls being left without education and vocational training and forced into marriages adds to this vulnerability. Equally there are particular circumstances in individual families that make children vulnerable to commercial sexual exploitation later in life. This includes families in which domestic violence occurs, in particular sexual and physical abuse of children. Vulnerability also increases where institutionalised care, such as that provided through orphanages and children homes, is inadequate and even abusive.

Migration, or rather the context in which it often occurs, makes children vulnerable to exploitation. This is particularly the case where children are separated from a protective environment, accompanied by abusive adults, undocumented, and marginalized in the place they migrate to. Measures taken to make migration (and return) safe must therefore be part of preventive and protective measures in tackling commercial sexual exploitation of children.

Issues that could be discussed:

1. What mechanisms are in place in participating States to assess the vulnerability of children to exploitation? Which state institution is responsible for such assessment at the local and national level?
2. How do participating States assess and address the heightened vulnerability of particular groups, such as separated minors, children in institutions and with special needs, minority children, socially and economically marginalized children and families. How do they ensure that these groups are empowered and benefit from preventive and protective measures?
3. Which are the main challenges participating States face in alleviating these vulnerabilities to exploitation and where would they need more support?

Session II: Legislation and its implementation: social protection and criminal law

Few would argue that there is a need for new international standards on combating commercial sexual exploitation of children. Standards exist: on the rights of the child, on combating exploitation and abuse of children, on sexual exploitation in all its specific forms, such as child pornography on the internet. What is often lacking however is effective implementation of these international standards at the national and local levels.

The focus of the fight against commercial sexual exploitation of children and legislative responses at the national and international level has so far been on the criminalization of related offences and the prosecution of offenders. In recent years, the importance of preventive and protective measures has been emphasized more, in particular in view of the limited deterrent effect of criminal law. Therefore targeted preventative and protective measures are essential, for children and their environments in general as well as for specific vulnerable groups and children at-risk. These include the adoption of law and policy on education, social and child protection, health and labour.

In the area of criminal law, the main task is to address remaining gaps in national legislation and to ensure that criminal justice systems are effective and its actors adequately equipped and trained to implement the law.¹⁵

In the area of preventative and protective measures, a review and enhancement of child protection systems, including related regulatory frameworks, at the local and national level are needed. In particular with regard to child pornography on the internet, the need to focus more on victim identification and assistance, often neglected in the past, has been noted.¹⁶

Issues that could be discussed:

1. What measures have participating States taken to identify and address loopholes in their national legislation to ensure that perpetrators are prosecuted?
2. Have participating States provided clear definitions of what constitutes child pornography?
3. How do participating States ensure that minors in prostitution are not punished or criminalized by national law or its implementation?
4. Which social protection measures have participating States introduced at the national and local level to ensure that particularly vulnerable groups and victims are identified and assisted?
5. What are the main challenges that participating States still face in developing and implementing adequate regulatory frameworks to combat commercial sexual exploitation of children?

Session III: Good practices in prevention and protection

Policies and measures to combat commercial sexual exploitation of children must be guided by child rights standards rather than for instance migration or public security concerns. Migrant children, in particular those who are separated from a protective family environment, are undocumented or have precarious residence titles, are at particular risk of exploitation and abuse.¹⁷

Children subject to commercial sexual exploitation often suffer further victimization by those who are responsible to help them. This is true for both girls and boys, national and foreign minors. Participating States need to ensure that exploited children are not subjected to further abuse, such as criminalization, deportation, violence, stigmatization or discrimination. Responses tackling commercial sexual exploitation of children need to aim at empowering those that are exploited or vulnerable. For some minors this means access to education for others access to vocational training and work

¹⁵ See ECPAT Global Monitoring Report on the status of action against commercial sexual exploitation of children, country reports. Available on: www.ecpat.net/eng/A4A_2005/login.asp. Specifically on child pornography see International Centre for Missing and Exploited Children (ICMEC), Child Pornography: Model Legislation & Global Review, 2nd Edition, 2006.

¹⁶ See E/CN.4/2005/78, 23 December 2004, paragraph 125

¹⁷ See Council of Europe, Commissioner for Human Rights, „Children in migration deserve better protection“, Viewpoint, August 6, 2007, available at www.coe.int/t/commissioner/Viewpoints/070806_en.asp. See also International Federation Terre des Hommes, Kids as commodities? Child Trafficking and What to do about it?, 2004.

opportunities.¹⁸ The best interests and needs of the individual child should always be at the centre of any decision making. The active participation of children at all stages of development and implementation of child protection responses is also an important safeguard in this respect. Equally, quality of care standards for caregivers are fundamental to ensure that children are cared for appropriately. Basic features of such standards include the rights and protection of a child, functional operational guidelines, ethical principles of practice, basic requirements for a child's physical and psychosocial well-being; the responsibilities of managers and caregivers; and effective case management.¹⁹

Issues that could be discussed:

1. How have participating States adapted their existing child protection mechanisms in order to be able to adequately respond to commercial sexual exploitation of children? This includes amongst others adopting quality of care standards for child-care facilities; rapid response programmes and assistance guidelines for care givers, social workers, health personnel and law enforcement agencies; outreach work; peer and life skills education.
2. How do participating States ensure that responses reach national and foreign minors alike and take into account the best interests and needs of the individual child?
3. Which good practices have participating States developed to ensure that children actively participate in the development and implementation of child responses?
4. What role do Child Ombudsmen play in participating States in the prevention and protection efforts?

¹⁸ See reports submitted by Juan Miguel Petit, Special Rapporteur on the sale of children, child prostitution and child pornography. E/CN.4/2003/79 on January 6 2003, E/CN.4/2004/9 on January 5 2004 and A/HRC/4/31 of December 26, 2006.

¹⁹ See John Frederick, Rehabilitation, Recovery, Reintegration: Raising Standards of Care, ECPAT International Newsletters, Issue No 44 1/July/2003. See ILO-IPEC, Standards and Guidelines for the care of the sexually abused and sexually exploited, in ILO-IPEC, Creating a Healing Environment, Volume I, Geneva 2002 and ILO-IPEC, Child Friendly Guidelines for the Recovery and Integration of Trafficked Children, Regional Project on Combating Child Trafficking for labour and sexual exploitation, Bangkok 2006. The guidelines are based on experience in Asia, are however universally relevant and applicable. They have also been used as standards and framework for work in Europe. See for example, International Federation Terre des Hommes, Kids as Commodities?, Chapter 16.