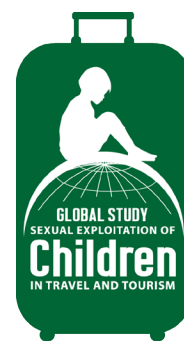


EXPERT PAPER

TACKLING THE DEMAND FOR THE SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM



UN SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

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INTRODUCTION

Since the First World Congress against the Commercial Sexual Exploitation of Children was held twenty years ago, the understanding of the profile of the child sex offender has considerably evolved. In the 90' it was assumed that this scourge was perpetrated primarily by men travelling from developed to developing countries; affected by some form of psycho-sexual disorder, such as paedophilia; or who were otherwise pathologically transgressive.¹ With time, this unique profile has become increasingly hard to uphold. Offenders cut across sex, age, nationality and personal background, making any effort at profiling hard to accomplish.

Furthermore, at a global scale, the conditions under which the sexual exploitation of children takes place are changing. The increasing globalisation and the resulting expansion by private companies of their activities and productive processes across national boundaries, along with other drivers such as conflict and war, have resulted in large population movements, within and between countries, which bring together very different actors into situations embedded with inequality. At the same time, the rise of ICTs has led to faster forms of gathering information and new ways of communicating across long distances, constantly and

¹ Eliana Riggio and Mark Hecht, "Power, Impunity and Anonymity. Understanding the Forces Driving the Demand for Sexual Exploitation of Children", ECPAT International (Bangkok: 2016), 8.

with little (if any) delay. These processes create new patterns and opportunities for the exploitation of children. Today, approaching children for illicit purposes is a highly profitable domestic and international operation, organised on the global market, often brokered on the Internet and supported by powerful criminal networks and businesses.² Thus, it is fundamental for States to live up to their obligation to protect the rights of children in these contexts of high mobility, which includes stepping up efforts to curb the demand for the sexual exploitation of children.

A constant throughout the different thematic reports that I have presented to the GA and the HRC has been the identification of those who are at the source of these crimes against children.

It is for this reason that I have chosen to dedicate my latest thematic study to this issue, in which I have repeatedly referred to the “travelling sex offender”. It is important to note that the expression “child sex tourism” to describe this type of demand is outdated and leaves out other categories of offenders who are travelling, such as business travellers, foreign workers, supporters travelling in the context of major sporting events, volunteers, government employees deployed overseas and expatriates on extended travel or residing abroad.

According to international human rights norms and standards, States have the obligation to prosecute perpetrators and address the underlying causes that facilitate the sexual exploitation of children. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, sets specific obligations on States to prohibit and criminalize these crimes, and emphasizes that efforts are needed to raise public awareness to reduce demand for these crimes. It further calls States to adopt extraterritorial jurisdiction over these crimes in order to deal adequately with the often international nature of demand for sexual exploitation of children.

Through this study, I have been able to delve into the different types and levels of demand for the sexual exploitation of children with the aim of providing a broad strategy for the eradication of these crimes. Demand encompasses (i) the individual offenders³ who pay, financially or in kind, for sexual services involving children, sexually abusing them in the process, (ii) every part of the supply chain which facilitates the access to children and (iii) the social, cultural, gender and institutional constructs that create an environment in which the sexual exploitation of children is either ignored, tolerated or even accepted. This can be summarised to three levels of demand, namely the immediate, intermediate and underlying levels.

Comprehensive strategies must be based on this understanding of the demand factor and incorporate all those who fall in the different categories thereof.

Indeed it has been a common misconception to focus only on those who directly abuse and exploit children. Yet, those who ensure that the demand is satisfied or worse who foster it are at the heart of the sexual exploitation of children and must be held accountable. Furthermore, there are certain enabling factors, which facilitate sexual exploitation of children and require long term efforts in order to be reversed.

With child sex tourism, all these three levels converge.

Child sexual exploiters, both preferential and situational, have been regularly identified in the context of travel and tourism, where the real defining characteristic of their act is the targeting of child victims in a different geographical setting to theirs. An essential feature of those offenders is their knowledge or belief that their actions will go unpunished. Moreover, the economic and cultural differences at the heart of the exploitation define the actions of the offender.

² Ibid.

³ Individual offenders can be broadly distinguished between those who have a preference for children and those who are considered to be situational offenders.

There is an anecdotal evidence of sex tour operators organising trips to areas where CSE is rife. Yet, the label of intermediaries covers a wide range of other facilitators such as taxi drivers, hotel staff, entertainment staff, massage parlour staff, tour guides and tour operators. They do not control the child victim, but act as a bridge between procurers or child victims and offenders. Individuals working in the entertainment industry, namely bars, karaoke clubs and brothels, have been identified in several cases as crucial points of contact for offenders seeking to sexually exploit a child.

Taxi drivers and hotel staff have also brought offenders to locations where children are sexually exploited. Most of those facilitators are part of the private sector, which thus becomes an intermediary by turning a blind eye to the criminal activities of its staff.

Racism and discrimination play a central part in certain forms of demand for the sexual exploitation of children. Some offenders, in particular in the context of travel and tourism, target children of a different ethnicity because they believe that the children are inferior and/or that the local culture condones the sexual exploitation of children. In addition, caste-based systems or similarly entrenched inequities enable the offender to justify the sexual exploitation of children from lower castes or groups.

The real or perceived absence of accountability for crimes against children empowers sexual offenders and guides their choice of destinations when they travel.

Hence, it is essential to deal with existing offenders by ensuring accountability, which also addresses the underlying factor of impunity.

There are still significant gaps in national legislations which are further compounded by a lack of cooperation at the international level and inadequate penalties. Every State should ensure that its legislative framework

is in line with international and regional standards which provide clear guidance on sanctions. Moreover, criteria such as the double criminality requirement should not stand in the way of a prosecution.

Impunity must be fought at every level not only to provide justice to the victims but also to eradicate it as an enabling factor. Indeed, impunity comforts perpetrators and potential offenders in their actions and creates a general social tolerance for the sexual exploitation of children. This is particularly true in the case of intermediaries who are too often overlooked. Every single facilitator must be held accountable through a variety of sanctions.

Accountability goes hand in hand with international cooperation of law enforcement.

Prosecution must also be ensured in cases of crimes committed abroad. This is the particular focus of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which can be considered as a legal basis for extradition when there is no extradition treaty. Articles 6 and 7 also emphasize the duty of States parties to cooperate and assist with investigations, confiscations and extraditions relevant to those offences. There has consequently been a strong emphasis on extraterritorial legislation to prevent offenders from escaping prosecution. It should nonetheless be noted that judging the crime in the country of the offender, when he or she has been removed from the crime scene and the victim, is not always in the best interest of the child and of the investigation. Unfortunately, the principle of double criminality is often a stumbling block for the prosecution of offences committed abroad. The Committee on the Rights of the Child has thus consistently called for the waving of that principle in the context of child sexual exploitation.

⁴ At the same time it should be borne in mind that there are potential downfalls to the use of sex offender registers that should be evaluated

International cooperation through international enforcement agencies can also be critical to prevent child sexual exploiters from reoffending abroad⁴. Structures as Interpol and Europol are crucial for pursuing accountability among transnational offenders. Other initiatives, such as the use of sex offender registries and the sharing of information between law enforcement agencies such as Europol and Interpol is crucial. An important tool to track offenders is the “Green Notice” system, a border control tool, established by INTERPOL that provides warnings and criminal intelligence about persons who have committed criminal offences and are likely to repeat the crimes in other countries.

Creating a specific notice for offenders convicted of sexual abuse and exploitation of children might be an additional step ahead.

In increasingly deregulated and dynamic environments, such as the tourism and travel industries, it is imperative to engage the private sector in the fight against SEC. There have been various relevant campaigns to foster their involvement, such as the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, and the Global Code of Ethics for Tourism. Other relevant initiatives for tourism and travel include the Financial Coalition Against Child Pornography,

launched in 2006 in the United States, the European Financial Coalition against Commercial Sexual Exploitation of Children Online and the Asia-Pacific Financial Coalition Against Child Pornography. The Guiding Principles on Business and Human Rights should also be used as a benchmark set by the private sector, as they complement those initiatives. Given the complex and urgent nature of the fight against SEC, efforts by the private sector should be supported and strengthened.

In conclusion, while there have been efforts to combat SEC, both within and beyond travel and tourism, this scourge has not disappeared. In order to accomplish this, we must develop comprehensive strategies facing all three levels of demand.

The 20th anniversary of the First World Congress Against the Sexual Exploitation of Children and the inclusion in the new development agenda of a distinct target (16.2) to “end abuse, exploitation, trafficking and all forms of violence against children” provides an opportunity to evaluate the progress made, but above all to galvanize efforts and opportunities to end the scourge of SEC, moving forward in the universal and global protection of all the world’s children.

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