



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/2004/NGO/22
13 July 2004

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-sixth session
Item 6 (b) of the provisional agenda

**SPECIFIC HUMAN RIGHTS ISSUES :
CONTEMPORARY FORMS OF SLAVERY**

**Written statement* submitted by the Marangopoulos Foundation for Human
Rights, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[2nd July 2004]

*This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

Combating the Worst Forms of Child Labour and New Forms of Slavery: The Need for Urgent and Concerted Action

The Marangopoulos Foundation for Human Rights has chosen to address this year's session of the Sub-Commission on Promotion and Protection of Human Rights on the interrelated subjects of slavery and worst forms of child labour.

Despite the fact that the prohibition of the exploitation of child labour and the prohibition of slavery are among the most widely accepted principles of international law and, in the case of the latter, the oldest of the international human rights to have taken conventional form, the protection of children from the worst forms of labour combined with the scourge of slavery remains largely ineffective. It is not so much that normative standards are lacking, but that effective implementation of existing standards is largely incomplete.

As far as the protection of children from the worst forms of labour is concerned, there are various treaties establishing a framework of obligations. Even before *ILO Convention no. 182 on the Worst Forms of Child Labour*¹ of 1999, the issue had already been dealt with in the *UN Convention on the Rights of the Child*² of 1989. In addition, the *ILO Minimum Age for Admission to Employment Convention*³ of 1973, establishes that the minimum age for labour shall reflect the age of completion of compulsory education, and shall not be under 15 years.⁴

The fact that all States – except the USA and Somalia – have accepted the UN Convention, and that the aforementioned ILO Conventions have also been widely ratified strongly indicates a general acceptance of the international obligations contained therein. Therefore, it could be plausibly argued that these norms now belong to the customary rules of international law and apply to children everywhere in the world. The implementation of these standards is therefore a matter of obligation for all States, regardless of the acceptance of conventional obligations and irrespectively of the prevailing socio-economic conditions.

The situation is nearly the same with regards to the prohibition of slavery. In particular, the *Slavery Convention* of 1926 and its *Amending Protocol* of 1953⁵, the *Convention on the Suppression of the Traffic in Persons* of 1949⁶, and the *Supplementary*

¹ Currently ratified by 150 out of the ILO's 177 Member-States.

² Currently ratified by 190 States. The relevant provisions are Articles 32 to 36.

³ *ILC No. 138* entered into force in 1976 and has been ratified by 134 countries.

⁴ Except when the contracting party's "economy and educational facilities are insufficiently developed", in which case the minimum age is 14 years

⁵ The *Slavery Convention* signed in Geneva in 1926 counts 96 States Party, and the *Amending Protocol* of 1953 has been ratified by 59 States.

⁶ Adopted by the UN General Assembly in 1949, this Convention entered into force in 1951 and has been ratified by 74 States.

Convention on the Abolition of Slavery of 1956⁷ have all been accepted by almost half of the international community. Moreover, the ILO has adopted international instruments concerning forced labour⁸, which have attracted a significant number of ratifications. Finally, it must be noted that Article 8 of the *International Covenant on Civil and Political Rights* prohibits slavery, servitude and limits the usage of forced labour to a small number of well-defined cases⁹. Undoubtedly, the ICCPR contains the most widely accepted prohibition of slavery and serfdom. This fact could explain the low level of ratifications of some of the older instruments relating to slavery. The prohibition of slavery in all its forms is therefore a rule of law that has emerged from the network of binding international instruments, and is now part of *jus cogens*.

Despite the existence of clear and unambiguous international human rights obligations in both fields, international and domestic efforts to combat the particularly horrifying situation of children working in slave-like conditions are clearly insufficient. Although the different treaties referred to set up formally distinct protection regimes and obligations it is clear that, if taken together, they form a complex overarching obligation and protection regime that is more effective than if each of its constituent parts is applied individually.

When taken together these standards suggest that children engaged in the worst forms of child labour are *by definition* modern slaves. The reasons are obvious: in contrast with adults, no child can freely choose to submit him- or herself to inhumane working conditions. By their own nature, they do not understand the nature and consequences of this submission, they lack the legal capacity and moral autonomy to make such a judgement, and are unable to react when they find themselves in slave-like conditions. For these reasons, when a child is engaged in prohibited forms of labour, this results in the simultaneous violation of two interconnected obligations, namely, the protection from the worst forms of labour and the protection from slavery.

Despite this obvious fact, children are still widely employed in a number of countries as manual labourers (often in the so-called 'sweat-shops'), as child domestic servants or as sex workers. It should be pointed out that, even when the work of children occurs under conditions that respect the minimum requirements set forth in international human rights law, extreme attention should be given in the monitoring of their enjoyment of the full range of rights they are entitled to. These include the range of child rights primarily guaranteed under the UN Convention, those afforded to workers generally, the fundamental principle of non-discrimination, and other economic, social and cultural rights.

⁷ Adopted by the UN General Assembly in 1953, this Convention entered into force in 1957 and has been ratified by 119 States.

⁸ Most notably *Convention No. 29 on Forced Labour* (ratified by 163 countries) and *Convention No. 105 on the Abolition of Forced Labour* (ratified by 161 countries).

⁹ Adopted by the UN General Assembly in 1966, the Covenant entered into force in 1976 and is currently ratified by 152 States.

Children become and remain 'modern' slaves for a great number of reasons. Foremost among these causes is massive poverty, and the growing gap between the rich and the poor both at domestic and international levels. The poor are increasingly vulnerable, and the rich are more and more unaccountable to both moral and legal standards that once bound them. Other factors also contribute to this situation: debt bondage; loss of parents due to mass displacement; war; pandemics such as the HIV/AIDS phenomenon; lack of alternative economic possibilities; traditional roles of girls, and many other factors create the conditions that are ripe for the exploitation of children. Once they are exploited, these conditions tend to self-perpetuate, producing effects that span generations and creating social problems that cannot be solved without the active involvement of the national governments and the international community. When a child that has been treated as a slave becomes of age, it would be extremely difficult to abandon the mentality of slave and he or she is bound to pass on this mentality to his or her children.

Besides the more obvious consequences – such as inability for schooling, physical and psychological abuse, and economic exploitation –, child labour, sex exploitation, debt bondage and the sale of children all have severely negative effects on the mental and physical health of children and considerably hamper their mental and social development. Suffice to say that children, who were deprived of schooling, of any meaningful autonomy and self-determination, will most be probably incapable of qualifying for other sorts of employment, and will often reproduce the same pattern of submission to exploitation and hopelessness in their own family. Thus, their descendants are condemned to the same fate. This is how slave-like practices are assimilated to 'traditional ways of life' in many parts of the world, and it is on this wide gamut of causes that such practices must be fought.

We would call upon this Sub-Commission, the Committee on the Rights of the Child, the Working Group on Contemporary Forms of Slavery, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, the Independent Expert on Violence Against Children, the ILO's International Programme on the Elimination of Child Labour (IPEC), and the WHO's Department of Child and Adolescent Health and Development (CAH) to redouble their efforts and their coordinated approach on this subject. We believe that only a holistic approach can provide a satisfactory response to this terrible problem which, instead of being contained, spreads continuously to more countries, specially in Africa and Asia.

National governments as well should reinforce their exchanges on 'best practices' and coordinate strategies and policies in view of ensuring an overall improvement of the situation on the ground. Sharing experiences is one of many ways by which countries with greatly differing social and economic conditions can improve their management of the problem. Developed countries, where the worst forms of child labour occur rarely or only in certain fields of activity – e.g., child prostitution – have a duty to cooperate. In particular, we would propose that they increase or redirect resources allotted by their Official Development Assistance budget in order to fund initiatives in this area, and adopt

measures to ensure that the actions of their citizens abroad does not amount to the exploitation of children. Special attention should be given to the issue of child prostitution and sex tourism, involving but not limited to, strengthening police and judiciary cooperation and mutual legal assistance worldwide. We call upon States that have not yet done so, to ratify the *Palermo Convention on Transnational Organized Crimes* and its *Protocols*¹⁰. Acceptance of these instruments is not enough though, and we plead for a swift and thorough implementation of its provisions in national legislation and policy.

Two initiatives worthy of praise could set the example of what must be done on a larger scale. Some states have adopted specific legislation concerning child sex tourism allowing for the prosecution and sentencing of nationals who have sexually exploited children in a foreign country¹¹. This extra-territorial jurisdiction is one interesting form of curbing demand for child sex victims. States have also adopted regulations demanding that companies operating abroad respect minimum labour standards applicable in the country of origin, thereby reducing the possibility of exploitation of workers, and in particular child workers. We welcome these initiatives. Although these are perhaps simple initiatives, they indicate the path ahead: to adopt concerted, multilateral action.

The Marangopoulos Foundation for Human Rights considers this to be an opportune moment to discuss the possibility of a revision and update of the normative framework relating to slavery, bringing this particular form of slavery in line with current manifestations. In this process, special attention should be given to the clear definition of “child slavery”, as a particularly heinous form that combines the ‘worst form of child labour’ with ‘slavery’. It would not be unrealistic to apply the principle of universal jurisdiction to “child slavery” in all its forms.

Nonetheless, no amount of national and international law-making and rule-setting will suffice, as long as these principles are not truly respected. This is why the focus should remain on the effective implementation of existing standards, even if improving these standards could be useful. What is now required is concerted action for the immediate implementation of these norms. Everybody – governments, international organizations, NGOs and other private actors – should now join forces.

¹⁰ The United Nations Convention against Transnational Organized Crime, the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, all three of which were adopted on 15 November 2000, and have entered into force on 29 September 2003 (79 State-Parties), 28 January 2004 (56 State-Parties) and 25 December 2003 (62 State-Parties), respectively.

¹¹ Reference should also be made to multilateral approaches such as that of the European Community, whose Council of Ministers agreed, in December 1999, on the implementation of measures to combat child sex tourism. See Official Journal C379 of 31 December 1999.