



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2003/NGO/260
20 March 2003

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-ninth session
Item 14 (d) of the agenda

SPECIFIC GROUPS AND INDIVIDUALS:
OTHER VULNERABLE GROUPS AND INDIVIDUALS

Written statement* submitted by International Educational Development, a non-governmental
organization on the Roster

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

[5 February 2003]

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

1. International Educational Development/Humanitarian Law Project (IED/HLP) brings to the attention of the Commission a situation that constitutes a contemporary form of slavery: when children are abducted from their custodial parent (usually the mother) and taken by a foreign-born parent (usually the father) to that parent's own country and kept there. The country to which the children are taken helps the fathers keep the children. We urge the Commission to condemn this as a form of slavery and to undertake action leading to its abolition.

2. The grief of losing a child is even worse when a child is lost not because it has died but when the child has been abducted by one parent and the other parent cannot either find or is unable to visit with the child. In this situation there is no closure, only endless years of deep grief coupled with both frantic efforts to be reunited with the child and the harsh frustration when these efforts fail. We present a representative case involving Saudi Arabia, because the difficulties that arise when the situation involves Saudi Arabia best illustrate why this is a contemporary form of slavery.

3. On January 25, 1986 the two daughters (then aged 7 and 3 ½) of Pat Roush, an American, and a Saudi national, were kidnapped by their father and taken to Saudi Arabia. At that time, Ms. Roush and her Saudi husband had divorced and the Court decree gave her sole custody of their daughters. On January 28, 1986 warrants are issued for the ex-husband's arrest by the State of Illinois. On January 22, 1987 the United States Federal Bureau of Investigation (FBI) issued an unlawful Flight to Avoid Prosecution arrest warrant (UFAP) against him. In the nearly eighteen years since that abduction, Ms. Roush has seen her daughters for two hours on one occasion in 1996. She spoke on the telephone to her younger child for five minutes in 2001. On both of these occasions, her daughters begged her to take them "home" and to get them out of Saudi Arabia. Every time an agreement was worked out between American and Saudi officials for the return of the girls, the agreements were breached. Both girls were forced to convert to Islam. Both girls have now been married to Saudi men, and at least one of them has a child. Both girls have been taught to say that they hate their mother and United States.¹

4. The definition of slavery in the Slavery Convention of 1926² focuses on the concept of powers over another equal to or analogous to ownership.³ The 1956 Supplemental Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery⁴ added debt bondage, serfdom, the practice of forced marriage, transferring of wives, inheritance of wives, and transfer of a child for purposes of exploitation.⁵ The Working Group on Contemporary Forms of Slavery now also includes female circumcision, forms of violence against women

¹ Many other cases are equally compelling: one emaciated girl (age 11 when her mother finally was allowed a visit after 5 years) has obvious psychological problems and has been sexually molested; another, now 19 years old, was forcibly married at age 12, locked in her room, raped by her stepbrother, then divorced by her "husband"; another was regularly beaten and verbally abused by her father, was locked in the home and forced to eat on the floor. All had little or no schooling.

² 60 L.N.T.S. 253.

³ *Id.*, Art. 1(1).

⁴ 266 U.N.T.S. 3.

⁵ *Id.*, Art. 1.

and discrimination against women, including lack of education, in addition to practices identified in the Supplemental Convention and the Slavery Convention.

5. There are many factors of the situation of abducted girls and women that meet the definition of slavery. They are subjected to a situation in which another person or persons have complete control over their lives, with all rights of “ownership”. They were forcibly abducted or kidnapped in clear violation of the laws of other countries and court orders issued by other countries. They were removed from their country to a country beyond the reach of law enforcement and court orders. Many of the abducted girls and women have been hidden away in family compounds. They do not have a choice regarding any basic rights of normal living, including religion, choice of spouse or age of marriage.⁶ They are denied visits with their mothers or other maternal relatives or are granted only rare and heavily supervised visits. In Saudi Arabia the case for slavery is further supported by the denial of other rights essential to prevent or remedy slavery: the right to freedom of movement, right to freedom from torture, inhuman and degrading treatment, denial of equal rights of women relating to all issues of family rights, the right to education, the right to remedies.

6. Some of the countries in which this situation occurs have ratified human rights treaties that should help remedy this form of slavery, but with reservations that render national application of them legally impossible. Once again using Saudi Arabia as the example, we present a brief review of these treaties, the Saudi reservations, and international condemnation of them.

7. The Convention on the Rights of the Child (CRC) has many provisions that could help prevent these practices if fully implemented; in particular Articles 2, 7 (child’s right to parental care), 8 (child’s right to preserve family), 9 (right to non-separation from parent and right to regular contact with parents), 11 (States duty to combat illicit transfer and non-return of children), and 14 (freedom of religion). Article 28 (the right to education) is also pertinent.

8. Saudi Arabia ratified the CRC on January 26, 1996 with this reservation: “[The Government of Saudi Arabia] enters reservations into all such articles as are in conflict with the provisions of Islamic law.”⁷ A large number of other signatory States, including Austria, Denmark, Germany, Ireland, Norway, Portugal, and Sweden, filed objections to this provision citing Article 19 (c) of the Vienna Convention on the Law of Treaties⁸ and the parallel provision in the CRC,⁹ and finding the Saudi reservation “unlimited in scope and undefined character” and

6 It is presumed the marriages of most of the girls have been arranged marriages. Many of the abducted girls are married young, so at that point their husbands have complete control over them as well. These young girls themselves become young mothers, adding a further barrier to their obtaining freedom. A few have been allowed to leave after they had children, but under the abjectly cruel condition that they give up their children.

7 Other countries where Islam is the national religion and where the same types of cases occur have also ratified relevant human rights treaties with similar reservations that have provoked similar objections.

8 1155 U.N.T.S. 331. Article 19 (c) provides, in pertinent part: “A State may, when signing, ratifying, accepting or acceding to a treaty, formulate a reservation unless: . . . the reservation is incompatible with the object and purpose of the treaty.”

9 Article 51(b), which provides: “A reservation incompatible with the object and purpose of the present Convention shall not be permitted.”

therefore “inadmissible.”

9. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) also contains many provisions that if fully implement could prevent this type of violation: Article 2, Article 5 (States must act on social and cultural patterns that interfere with women’s rights, including those related to family life), Article 9(2) grants women equal rights to men regarding the nationality of children. Article 16 requires States to ensure that women have the right to free choice regarding marriage, including the right to choose a spouse. Article 16(d) provides that women and men have equal rights and responsibilities as parents “in matters relating to their children”, regardless of their marital status.

10. Saudi Arabia ratified CEDAW on September 8, 2000 with similar reservations to those cited above. Many countries lodged protests, with France declaring that the general reservation “could make . . . the Convention completely ineffective.”¹⁰

11. The overriding difficulty with implementation of any human rights in some of the countries that have made this type of reservation is that the Shari’a as it is interpreted in those countries nullifies them. Once again using Saudi Arabia as an example, all courts there are Shari’a courts that are both procedurally and substantively incompatible with civil courts in the countries from which the children are abducted. Saudi law does not recognize foreign court orders, including child custody orders or outstanding criminal warrants. According to the Saudi interpretation of Islam, women and girls are completely under the dominance and control of their Saudi fathers, brothers, husbands and other males in the family. Both arranged marriage and marriage at an early age are the norm. A male family member who so wishes can keep a girl or woman within the confines of her home -- virtually under “house arrest” -- for her entire life. This is frequently the case with the abducted children because of fear that their abducted daughters and wives will escape or that foreign officials or others will try to “recapture” them. For all practical purposes the abducted girls and women are “owned” in a way comparable to the classical definition of slavery and their life situation necessarily constitutes a contemporary form of slavery.

12. Because there is no possibility of legal remedy in certain of the countries that allows these practices, we urge the Commission on Human Rights to address this as a matter of great urgency. We also call upon the High Commission for Human Rights, the Sub-Commission Working Group on Contemporary Forms of Slavery, and all relevant treaty bodies to help in this effort.

¹⁰ The Convention on the Elimination of Racial Discrimination (CERD) also has many provisions that if fully implemented could help redress the violations in these cases. Saudi Arabia ratified CERD on September 27, 1997 with similar reservations. Finland, one of the many objectors, claimed that there were “doubts as to the commitment of Saudi Arabia to the object and purpose of the Convention.”