

Summary of Final Report on the Trafficking of Women and Children for Sexual Exploitation in the Americas

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to the CIM Executive Committee
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The Inter-American Commission of Women (CIM) conducted a study on "Trafficking of Women and Children for Sexual Exploitation in the Americas" in association with the Inter-American Children's Institute (IACI). The research was conducted by the International Human Rights Law Institute (IHRLI) of DePaul University in Chicago. I am pleased to submit to the Committee a summary of the results of the reports.

Preparation of the National reports and Subregional report has been finalized. We are now beginning the revision, editing and translation of the reports, which will be presented at the Assembly of CIM Delegates to be held in the Dominican Republic in October 2002. The pilot countries for the study are Brazil, Belize, Nicaragua, Costa Rica, Panama, Honduras, El Salvador, Guatemala and the Dominican Republic. Brazil's report of more than 300 pages is the result of research developed independently by a group of more than 150 NGOs, together with independent experts and with public sector participation. A network of NGOs was created in Brazil that mobilized participation in all regions of the country. Overall coordination was handled by CECRIA, an NGO dedicated to the defense of children and adolescents, and its extensive report includes cases of women involved in trafficking to and from the country for purposes of sexual exploitation, maps with internal and international trafficking routes and recommendations for various areas of government and civil society.

In the countries of Central America and the Caribbean, the research study was conducted in two stages. The first stage involved the participation of NGOs and experts on the subject, who worked on the basis of a model questionnaire provided in advance by the IHRLI. Once the responses to this questionnaire had been received, representatives from the IHRLI and CIM traveled to the eight countries of the region to complete and verify the existing data, and to add information derived from interviews with authorities from immigration, the national police and border police, ministries of labor, health and justice, consulates, local NGOs and international organizations with offices in the countries (IOM, ILO/IPEC, Save the Children), independent experts and others.

I should like to take this opportunity to thank the Principal Delegates and Directors of the OAS offices in Nicaragua, Belize, Costa Rica, Panama, Honduras, El Salvador, Guatemala and the Dominican Republic for the continued support and collaboration they provided and their sincere interest in the subject. Their assistance made it possible to coordinate a heavy schedule of meetings and interviews and to reach far-flung populations. Their having provided vehicles and staff made it possible to travel through border areas and to locations that are difficult to access such as brothels, bars and red-light districts.

It is difficult to summarize in a few words the information compiled and analyzed. I will try to provide an overview of the problem of trafficking in the pilot countries, noting the more significant aspects that emerge from the study.

1. Concept of Trafficking

The concept of the trafficking of persons (in Spanish, "trata" [trade in human beings] in the preparatory discussions in the United Nations) is differentiated from the term contraband in persons or illegal transport of persons (smuggling), and this difference is important for understanding the need to provide adequate protection to the victims of trafficking or "trata."

The facilitation of illegal immigration refers to the phenomenon of smuggling or illegal transport, which does not contain an element of coercion or deception, at least at the start. It refers to a situation in which the emigrating person manages to illegally enter a country where they are not a native and do not have a visa or permanent residence. Smuggling is not recognized as a human rights violation but rather as a violation of immigration laws, and includes migrants' voluntary involvement with networks of traffickers in order to gain illegal entry or admission to another country.

Trafficking or trading in persons is a human rights violation that involves abuse and exploitation. For our study we use the concept adopted by the United Nations, but I want to stress that we cover not only international trafficking but domestic trafficking as well.

Taking as our source the December 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, trafficking or trading in human beings is understood as "the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. That exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs."

In many cases the victims of trafficking start voluntarily by paying "coyotes" (smugglers) in order to gain entry to another country, but later become trapped along the way in trafficking networks for exploitation, for various reasons (the "coyote" abandons them, or the debt increases and they cannot pay and are at the mercy of the traffickers).

2. Subregional Report

The first section of the subregional report is dedicated to definitions and the conceptual framework used in compilation and analysis. The report then develops the socioeconomic profile of the region and general patterns or currents of migration throughout the territory, the characteristics of which coincide in many cases with trafficking routes. It continues by providing an overview of the characteristics of trafficking of women and children for sexual exploitation in the Central American and Caribbean countries studied. It analyzes routes, risk factors, causes, conditions and consequences; international commitments assumed, public policies and relevant domestic legislation; obstacles and deficiencies in fighting trafficking effectively. It ends with a series of conclusions and recommendations. The annexes to the Subregional Report contain the national reports for Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and Panama.

The results indicate that the trafficking of women and children for commercial sexual exploitation in Central America and the Caribbean is undeniable and occurs within and across borders.

The characteristics that favor trafficking include risk factors associated with the individuals or victims, factors that help to make some people more vulnerable to trafficking and sexual exploitation. These factors are not determining, but together with demand or clients and criminal networks operating with impunity, they increase the risk that these people will fall into the trafficking cycle.

For young adult women and minors (between 12 and 17 years of age), economic necessity, responsibility as heads of households, illiteracy or minimal education, lack of training in technical skills, and a history of physical and sexual abuse appear to be factors that combine to contribute to their risk of becoming the victims of trafficking.

As for the characteristics associated with external circumstances or conditions, the interviews indicate the existence of an environment conducive to trafficking that includes gender-based discrimination, unemployment and poverty, attitudes of disdain and lack of respect for women and children, weak migration controls, corruption and the impact of globalization. The sex market or industry, sexual tourism and other forms of demand for sexual services are fundamental components in the existence of trafficking networks.

The traffickers know immigration policies, legislation and practices and frequently operate through legal means for illegal purposes. Police and immigration authorities operating along international borders recognize that trafficking exists and is increasing. They emphasize the existence of problems that limit their ability to combat it, such as extensive uncontrolled border areas, lack of suitable personnel, computers and information systems shared by immigration and the police, lack of trained personnel, and widespread corruption. Many indicated that the CA-4 identity card promotes trafficking in the region. Nicaragua, Honduras, El Salvador and Guatemala allow a native adult with a CA-4 to remain in any of these countries for a period of 90 days, after which he or she needs permission to stay. This allows traffickers and victims to travel without being detected as such by the authorities.

3. Who Are the Traffickers?

Private and public agents are involved. **Private agents** include shippers, taxi drivers, cyclists (rickshaw), and truckers. They can participate in recruiting, in concert with owners or independently.

The **communications media** are a method for recruiting through classified ads and radio announcements. Internet services are being used to stimulate demand through Web pages that offer sexual tourism and fraudulent marriages.

Attorneys have been implicated in trafficking for falsifying documents to allow minors to travel without authorization. In Nicaragua, for example, it has been reported that 15 attorneys have been sanctioned for producing fraudulent documents. The same problem has occurred in Panama, where fraudulent marriages are used to recruit Dominican women.

Owners of nightclubs, brothels, cabarets, bars, motels, etc. participate in the process of recruiting and exploitation. They receive and control the victims' earnings and hold their documents, ensuring a position of power over them and a high degree of impunity.

Public Agents: Immigration and police officers and other public officials help the traffickers. Cases have been identified of fraudulent births, documentation falsifying ages and identities for crossing borders, and destruction of documents to protect the owners of brothels and bars, in order to impede investigation and continuation of court proceedings.

4. Demand

Without clients, trafficking for sexual exploitation would disappear. The demand in the region is basically for prostitution and strippers/cabarets. Demand is concentrated in areas where it is tolerated such as tourist areas, ports, locations along international routes, and certain agricultural areas where migrant workers are primarily men. Increased tourism and the massive opening of casinos in the region have opened up a growing international market.

These intermediaries - bar and brothel owners, taxi drivers, hotel managers, salesmen and pimps - all serve client demand. On several occasions, we received information that drugs and alcohol are also used to control women and minors. They are used not only to induce dependency on the owner but also to increase the victim's debt to him.

5. Legislation

No country in the region has legislation against all forms of trafficking in persons or specifically against trafficking for commercial sexual exploitation. However, they all have laws in their criminal codes that punish the act of facilitating entry for purposes of prostitution. The crime of trafficking as such is not explicitly defined in the legislation. Moreover, the enforcement of existing laws against pimps and facilitators is practically non-existent.

6. Principal Obstacles to Confronting the Trafficking of Persons

The absence of public policies against trafficking and legal gaps or the inapplicability of existing legislation contribute to the impunity of the traffickers and do not provide the victims with the services they need.

The scarcity of human, technical and financial resources is alarming. The effort often falls to a single person. In most of the region's countries, police and immigration personnel work without essential equipment (computers, vehicles, video cameras, recorders, telephones, fax machines). With limited or non-existent technology, activities such as monitoring borders and discovering or detecting trafficking operations are extremely difficult and even dangerous. There is a lack of specialization in the investigative police, including the police gender unit, prejudicing the appropriate handling of victims, and resulting in the absence of charges due to fear of the authorities and lack of confidence in the justice system.

7. Trafficking Routes

Trafficking Routes or Corridors Run from Nicaragua to Honduras, El Salvador, Guatemala and Belize.

In terms of trafficking networks, we could say that Nicaragua receives flows from South America and is the point of origin for traffic flowing both south (toward Costa Rica) and north (toward Honduras). Victims generally follow the route that passes through Honduras and El Salvador, and end up in Guatemala, Belize or southern Mexico. Women and minors are added along the way when they are recruited in Honduras for establishments in El Salvador, Guatemala and Belize. Since the requirements for entering Costa Rica and Mexico are more stringent, the traffic generated is greater from Nicaragua to Guatemala. With promises of employment and the "American dream" pushing people northwards, trafficking activities are more visible and concentrated along the border between Guatemala and Mexico, particularly in the city of Tecún Umán, known as the "new Tijuana," a place that is clear evidence of the serious trafficking problem in the region.

The Route in Costa Rica, Panama and the Dominican Republic

The data indicate that Dominican women have been subject to trafficking to Costa Rica and Panama and there are data on trafficking on the border between Costa Rica and Panama. Unlike other countries in the region, Costa Rica, Panama and the Dominican Republic have been involved in trafficking to areas outside the region. Routes from the Dominican Republic reach the Caribbean (Aruba, St. Martin, Curacao), South America (Argentina) and Europe (Austria, Switzerland, Germany, Italy, Holland and Spain). Women trafficked from Colombia, Bulgaria, Russia and the Philippines have been taken to Costa Rica. Dominican and Colombian women have been trafficked to Panama. Trafficking methods from, to and between these countries require transportation by air or sea. This seems to have reduced the number of minors who are victims of trafficking in comparison with the rest of Central America.

8. Conclusions

The conclusions include the view that society's **tolerance** of the commercial sexual exploitation of women and minors, taboos regarding sexuality, and a culture that discourages reporting those suspected of trafficking and exploitation contribute to hiding the problem.

The **response mechanisms** of governments have for the most part been non-existent or inadequate. Disinterest, corruption and limited resources affect police investigations, the justice system and the immigration sector. Few court proceedings are initiated for trafficking crimes and practically no one is convicted. Health and welfare services for women and minors rarely offer assistance to the victims of trafficking. Legal services do not adequately support the victims. The press is performing an important function in raising awareness, although there is little investigative journalism.

The region is totally lacking in methods for prevention, protection, punishment of trafficking and strategies to reintegrate victims in society.

The information gathered shows a disturbing panorama of small and medium-scale criminal networks, including bands of youths or gangs acting with almost total impunity and in the absence of identification, treatment and protection for the victims.

Many forums for action, defense and treatment are not used as yet, in part because trafficking of persons has not been put on the national agenda in most countries of the region. With greater mobilization, more consciousness-raising campaigns would be generated, improving the case reporting system, developing policies and reforming legislation and articulating prevention and protection strategies, as well as investigation and punishment of traffickers.

9. Recommendations

A) In the Regional Context

- 1. Create a regional regulatory framework**, action plan or series of guiding principles, so that there will be shared standards or rules against trafficking or trading in persons, particularly women and children, for purposes of exploitation. This would facilitate the creation and implementation of regional strategies.

There are international instruments that provide a regulatory framework:

- a. Ratify the United Nations Convention on Transnational Organized Crime and the Optional Protocol on Trafficking, December 2000.
- b. Implement existing treaties: Convention on the Rights of the Child; ILO Convention 182 on the Worst Forms of Child Labor; Convention on the Elimination of All Forms of Discrimination against Women; the Convention of Belem do Pará; the Inter-American Convention on International Traffic in Minors.
- c. It is recommended that actions be coordinated with the Central American Parliament (PARLACEN), taking into account the existing similarities in legislation, in order to develop actions to reform and harmonize legislation in the region so that it contains effective provisions both for prevention and protection and for the prosecution of traffickers.

2. Promote Greater Regional Coordination

Due to the regional dynamic of trafficking, particularly between Nicaragua, Honduras, El Salvador, Guatemala and Belize, it is recommended that the following be drawn up:

- a. Bilateral and multilateral agreements in priority areas for cooperation between the region's investigative police and immigration departments, particularly exchange of information and intelligence.
- b. Mechanisms for the safe return of the victims of trafficking.
- c. Special procedures for intervention, treatment and protection in the case of minors who are the victims of trafficking.

B) In the National Context

- a. In the short term, it is recommended that legislation be adopted against trafficking of persons, particularly women and children, and harmonized in the countries of the region.
- b. Establish a coordinated consultation and action mechanism between judicial, police, immigration, social service, health, labor, and foreign relations agents through consulates, NGOs, for the purpose of planning and coordinating effective responses to the problem.
- c. In the medium term, training and instruction are needed for police and court officials to identify real or potential victims, covering recruitment up to rescue. Training is needed for consulates, given their primordial role in protecting their nationals abroad.
- d. Develop assistance to protect victims in the case of charges. In most cases, the victims are incapable of participating by filing charges with the police, submitting statements before a judge, or seeking help from their consulates. There are various reasons for this, including fear, ignorance or problems related to trafficking victims' legal status in the country to which they were taken.
- e. It is recommended that uniform registration systems or consular "protocols" be developed with the Ministries of Foreign Relations for reporting cases of trafficking. Measures should be adopted to report cases and to provide support from the consulates to help women participate in court proceedings against traffickers.

10. Response Mechanisms and Good Practices

The Dominican Republic has placed trafficking of persons on the national agenda. No other government of the countries studied has directed resources for specific programs and policies regarding the subject. CIPROM (the Inter-Institutional Committee for Protection of Migrant Women), created in 1999 with participation from the government and the non-governmental sector, has generated important public policies against trafficking and has implemented victim assistance programs and training courses for foreign service officials.

In December 2001, **Brazil** announced the creation of a National Program against Trafficking of Persons and developed some prevention campaigns.

The Congress of the **United States** approved the Trafficking Victims Protection Act (2000), created an office within the State Department that monitors trafficking of persons, and established mechanisms for protecting victims, including the possibility of obtaining a special T visa for 3 years while their cases are being investigated by the justice system.

We have received requests to provide training and instruction in anti-trafficking strategies from various areas, PARLACEN, the Association of Chiefs of Police of Central America and the Caribbean, and the Association of Women Police in Gender Units.

Discussions have been initiated with specialists in the Civil Rights Divisions of the United State Department of Justice and the Office in the State Department that monitors trafficking of persons. These specialists have shown great interest in providing technical assistance for legal reform and training for legislators, justice system personnel and national and border police.

I do not want to go on at length and would like to leave room for your comments or observations. I am available to clarify anything or to provide any additional information. Thank you very much for your attention.