



General Assembly

Distr.: General
14 February 2010

English only

Human Rights Council

Sixteenth session

Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid

Addendum

Communications to and from Governments*

* The present report is circulated as received.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–8	3
II. Summary of communications on alleged human rights violations sent and responses received.....	9–109	4
A. Bangladesh.....	10–16	6
B. India.....	17–31	7
C. Kazakhstan.....	32–48	10
D. Mexico.....	49–62	12
E. Nepal.....	63–69	14
F. Pakistan.....	70–78	15
G. United Arab Emirates.....	79–85	18
H. United States of America.....	86–93	19
I. Uzbekistan.....	94–109	20

I. Introduction

1. This addendum to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography contains, on a country-by-country basis, summaries of individual cases and general situations transmitted to Governments between 16 June 2009 and 23 November 2010, as well as replies received between 16 June 2009 and 23 January 2011.
2. The Special Rapporteur recalls that in transmitting communications, she does not make any judgment concerning the merits of the cases.
3. During the period under review, the Special Rapporteur transmitted ten communications to the Governments of nine countries: Bangladesh, India, Kazakhstan, Mexico, Nepal, Pakistan, United Arab Emirates, United States of America and Uzbekistan. Five responses to these communications were received. Eight of the communications were sent jointly with other Special Procedures mandate holders, including the Special Rapporteur on trafficking in persons, especially women and children, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.
4. The Special Rapporteur regrets that some Governments failed to respond and thanks those which took the time and made the effort to provide replies, which are reflected and summarized in the present report.
5. For reasons of confidentiality, privacy and protection, the names of victims appear only in initials in this report. The Special Rapporteur has also used initials for certain other persons concerned in order to minimise the risk of possible further victimization. Moreover, with a view to preserve the presumption of innocence, only initials are used for the names of alleged perpetrators.
6. This report contains individual cases and general situations related to the mandate of the Special Rapporteur, including allegations related to the sale of children, trafficking of children for sexual exploitation, child pornography, and other forms of child sexual exploitation.
7. In framing her interventions in these cases, the Special Rapporteur is guided by the legal framework and principles set out in the Convention on the rights of the child, and in its Optional Protocol on the sale of children, child prostitution and child pornography. She frequently cites articles 19, 34 and 35 of the Convention on the rights of child. Article 19 provides that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Article 34 provides that states Parties must undertake to protect the child from all forms of sexual exploitation and abuse, and article 35 of the Convention on the rights of the child, which provides that States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.
8. She also frequently cites articles 2 and 3 of the Optional Protocol to the Convention on the rights of the child on the sale of children, child prostitution and child pornography, which, respectively, define the concepts covered under the treaty, and impose the obligation on States Parties to criminalize or penalize these activities. Furthermore, she is guided by article 9 of the Optional Protocol to the Convention on the rights of the child on the sale of

children, child prostitution and child pornography, regarding preventive measures and the obligation of States to ensure access to procedures for compensation for damages suffered.

II. Summary of communications on alleged human rights violations sent and responses received

9. The following table sets out the overview of the communications sent by the Special Rapporteur during the period under review:

<i>Date</i>	<i>Country</i>	<i>Type of Comm</i>	<i>Individuals concerned</i>	<i>Alleged violations/Human rights issues</i>	<i>Government Reply</i>	<i>Date of Government response</i>	<i>Paragraphs</i>
30.09.2009	Mexico	JUA	Children of Mexican nationality, J.C.C.B., A.G.C.B., and D.L.B.H., I.M. C.M.J.A. and the brothers A.I. J.O., N.I.J.O. and H.M.J.O.	Trafficking, sale and enforced disappearance of children	No	-	49-62
20.10.2009	Kazakhstan	JUA	Boys of Uzbek nationality, including B.I.	Sale and trafficking of children for the purpose of labour exploitation.	Yes	20.12.2009	32-48
20.10.2009	Uzbekistan	JUA	Boys of Uzbek nationality, including B.I.	Sale and trafficking of children for the purpose of labour exploitation	Yes	25.11.2009	94-109
14.01.2010	United States of America	AL	A-L.M.A.K-P., who is reportedly suffering physical and sexual abuse, neglect and possible exploitation in pornography	Use of child in pornography	Yes	03.03.2010	86-93
09.02.2010	Pakistan	JAL	988 Pakistani child camel jockeys trafficked to the UAE	Failure to provide compensation to the former child camel jockeys trafficked to UAE	No	-	70-78
09.02.2010	United Arab Emirates	JAL	988 Pakistani child camel jockeys trafficked to the UAE	Failure to provide compensation to the former child camel jockeys trafficked to the UAE	No	-	79-85
08.04.2010	India	JUA	A.S. and human rights defenders working in an NGO working on issues of forced prostitution	Intimidation and threats against individuals related to legitimate activities in defense of human rights, in particular the fight against the sexual exploitation of women and children	Yes	13.12.2010	24-31
15.10.2010	India	JAL	Approximately 70,000 child bonded labourers	Trafficking, sale of children, use of children in bonded labour	No		17-23
15.10.2010	Nepal	JAL	Approximately 70,000 child bonded labourers	Trafficking, sale of children, use of children in bonded labour	No		63-69
15.10.2010	Bangladesh	JAL	Approximately 70,000 child bonded labourers	Trafficking, sale of children, use of children in bonded labour	Yes	29.10.10	10-16

that the officers failed to consider claims in light of all evidence available. According to the information received, there are currently 988 former child camel jockeys whose claims are still pending and have not been provided compensation. Thirdly, the Claims Settlement Facility was to be terminated upon distribution of the awards in the manner determined by the Administrative Board in accordance with section 6 of the MOU. However, the Government allegedly terminated the Claims Settlement Facility already on 31 March 2009 without providing compensation to the 988 claimants concerned.

83. The Special Rapporteurs asked the Government to verify whether the facts alleged in the summary of the case were accurate. The Special Rapporteurs also inquired about the status of claims submitted on behalf of the 988 former child camel jockeys concerned in this case and whether the claims have been considered by the Claims Settlement Facility. If they have been refused, the Special Rapporteurs sought explanations from the Government on the grounds on which the claims were refused.

84. The Special Rapporteurs also requested full statistical information on the compensation process, including the number of claims which have been submitted to the Claims Settlement Facility, the number of claims which have been accepted, the amount of disbursement made to date, and how these disbursements have reached the former child camel jockeys. Furthermore, the Special Rapporteurs requested information on: measures taken to ensure that only the child camel jockey victims benefit from the Claims Settlement Facility; awareness-raising efforts undertaken to inform former child camel jockeys of the existence of the Claims Settlement Facility; any bilateral support provided to the Government of Pakistan to facilitate the rehabilitation and reintegration of the former child camel jockeys who have been repatriated to Pakistan.

2. Observations

85. The Special Rapporteur regrets not having received a reply from the Government of the United Arab Emirates to her letter of 9 February 2010, and invites the Government to provide her with information regarding the allegations set out in her letter.

H. United States of America

1. Communication of 14 January 2010

86. On 14 January 2010, the Special Rapporteur sent a communication concerning allegations of State inaction with regard to 6 year-old A-L.M.A.K-P., who was reportedly suffering physical and sexual abuse, neglect and possible exploitation in pornography, by her father and his friends, since June 2008.

87. According to information received, A-L.M.A.K-P. lived with her father, Dr. M.H.P. in Washington, DC. M.H.P. isolated the child and kept her in an unkempt one room apartment with a queen size bed, no windows, and isolated stairs that lead to her bedroom. She was prevented from having contact with other children outside of school, and had been isolated from her extended family, friends and religious community.

88. It is alleged that at least four reports to the Washington DC Child and Family Services Agency (CFSA) were made by three professionals disclosing their respective suspicions that A-L.M.A.K-P. was being neglected and physically and sexually abused after assessing all medical records, school records and other information. The CFSA is mandated by law to investigate, protect and provide services for abused and neglected children. Dr. L.S., a child psychologist, stated her opinion on 14 August 2008 that there was clinical evidence suggesting that A-L.M.A.K-P. was being sexually abused. On April 20, 2009, Dr. J.S. reported her suspicions that the child is a victim of sexual abuse and physical and medical neglect. Dr. R.S. also stated in his affidavit of 15 April 2009 that the child was

suffering from neutropenia and had not been receiving adequate treatment. In fact, Dr. R.S. previously made a report in October 2008 regarding inadequate follow-up of her neutropenia, further to which allegedly no thorough investigation occurred. Additional medical documentation indicated a possible diagnosis of oral and genital herpes.

89. According to information received, the CFSA refused to provide reasons for not conducting thorough investigations of these allegations. The mother of the child, Dr. A.K. had filed a “freedom of information act request” requesting all documentation relating to A-L.M.A.K-P. and/or Dr. A.K. from the CFSA. The CFSA denied the request, so Dr. A.K. had since appealed that denial to the Washington DC’s Mayor’s office.

90. Furthermore, A-L.M.A.K-P. was allegedly being exploited by her father and his friends and colleagues, through use in pornography and other forms of sexual exploitation. A-L.M.A.K-P. had been visited by a social worker and a special police detective but according to information received, the child was not identified by such authorities as being isolated, nor suffering from post-traumatic stress disorder, nor a potential victim of pornography.

91. According to information received, Dr. A.K. had filed complaints to the Police of Washington, DC and to the Child and Family Services Agency, Washington, DC without having received any information on progress or status of such complaints.

2. Response and observations

92. The Special Rapporteur thanks the Government for its response of 3 March 2010, provided through the Child and Family Services Agency of the Government of the District of Columbia. The Government stated that since there are cases pending in the Superior Court where Dr. A.K. is suing for custody, and in the Court of Appeal where she is pursuing her Freedom of Information Act request, it is limited in what it can discuss in this matter. The Government also stated that it cannot comment on the contents or findings of the investigation due to the confidentiality laws of the district of Columbia. However, the Government stated that the “mandated reporters” mentioned in the letter of the Special Rapporteur had no contact with the child and that CFSA did conduct a thorough investigation of the allegations on multiple occasions. It added that the allegations of medical neglect and sex abuse have been lodged by the mother in multiple jurisdictions including Maryland, Virginia, New York and the District of Columbia. A parent may obtain copies of the investigation summaries if they are founded or inconclusive but not if unfounded as those reports are expunged from the Child Protection Registry. Further, the Government stated that the child has no contact with the mother because a court order from the Commonwealth of Virginia prohibits it.

93. The Government stated that the letter is the first mention of any allegation that A-L.M.A.K-P. was being exploited by her father and his friends and colleagues through use in pornography and other forms of sexual exploitation. The Government added that the mother had not provided any evidence of such practices to any authority in the District of Columbia, and noted that any new allegations of facts that support any claim of child abuse or neglect should be conveyed to the CFSA hotline at (202)671-SAFE(7233).

I. Uzbekistan

1. Communication of 20 October 2009

94. By letter dated 20 October 2009, the Special Rapporteur, jointly with the Special Rapporteur on trafficking in persons, especially women and children, the Special Rapporteur on the human rights of migrants, and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, sent a letter of allegation to the