

THE SITUATION OF HUMAN TRAFFICKING WITH PURPOSES OF SEXUAL EXPLOITATION AND ITS IMPACT ON GIRLS AND ADOLESCENTS

Recommendation of the 2nd cycle of the UPR:

N.º 116.42 Improve coordination on trafficking in persons (TIP) investigations, increase funding for TIP victim services, implement programs to combat the worst forms of child labour and forced labour. (United States of America)

N.º 116.21. Continue to allocate appropriate budget and resources to address challenges such as trafficking in persons, sexual exploitation of children and extreme poverty in rural areas and establish a targeted timeframe for implementing related plans and programs. (Thailand)



Implementation of the recommendation:

In 2012, the Peruvian State agreed to implement the recommendations made by the United States and Thailand. However, there are no advances in the comprehensive support for victims of trafficking. In Peru, the main victims of sexual exploitation are girls and adolescents. In 2014¹, 34.9% of the victims were girls and adolescents, forced to provide services in brothels and to be female escorts in pubs. In 2016, 127 victims were girls, boys and adolescents, and there were 96 reported cases of sexual exploitation in nightclubs or brothels².

Assistance to victims of trafficking in the area of health.

Even though the recommendation from the US emphasized the need for assistance to victims, **the main advances of the State with regard to human trafficking have been focused on prevention and prosecution, and very little in the care and protection of victims.** Thus far, **there is no budget nor a Health Care Protocol** that would ensure the assistance to victims, families and witnesses³, mainly in the area of mental, sexual and reproductive health.

Because of this, in the year 2016, the Committee on the Rights of the Child recommended to the Peruvian State to **ensure that boys and girls who are victims of sexual exploitation receive appropriate assistance, especially for their physical and psychological recovery and their full social reintegration**⁴.

Prosecution with a gender approach to avoid impunity.

Even though in 2014 the CEDAW Committee recommended to the Peruvian State to “24) b) **Strengthen the capacity of judiciary officials, law enforcement officials and border officials (...) to assist the victims of trafficking with due regard to gender issues**”⁵, this has not been achieved. In 2014, the Permanent Criminal Chamber of the Supreme Court of Justice issued the Appeal for Annulment N.º. 2349-2014, which confirmed the acquittal of a woman accused of human trafficking and whose victim was a 14-year-old girl recruited to work as an “escort” in a pub in the mining area of Mazuko in Madre de Dios⁶.

The **Chamber considered that there was no labor exploitation since “being an escort (...), is not a labor that would exhaust the strength of the worker”; nor sexual exploitation because she was only told once to have sex with customers.** This discriminatory judgment ensured the impunity of the accused by providing a sentence based on gender bias on victims of sexual exploitation. Albeit the judges were reported to the National Council of Magistrates (CNM) for engaging in manifestly discriminatory treatment in the exercise of their position and not prompting the court decision, **the CNM did not sanction the magistrates because it did not consider that there were reasons to do so.**

¹ Office of The Attorney General. Official Communication N.º. 685-2015-MP-FN-OBSERVATORIO Request to Access Public Information regarding human trafficking complaints in the years 2013, 2014 and 2015 (2015)

² National Police Force of Peru. Statistical Yearbook 2015, page

³ CHS Alternativo 2015 Third Report: Assessment from the Civil Society on the Situation of Human Trafficking in Peru 2014 – 2015, page 74.

⁴ Concluding observations on the report submitted by Peru under Article 12, paragraph 1, of the Optional Protocol of the Convention on the Rights of the Child regarding the sale of children, child prostitution and child pornography (2016), paragraph 34.

⁵ CEDAW Committee. Concluding observations on the combined 7th and 8th periodic reports of Peru (2014)

⁶ Available at: <http://elcomercio.pe/peru/madre-de-dios/polemica-sentencia-villa-stein-trata-menores-257053>

Situation of vulnerability and revictimization in the Residential Care Centers (CAR) for victims of trafficking.

According to a national study⁷, the model of assistance applied in CAR centers infringes public policies aimed at the no revictimization. Many of the victims are admitted into a CAR center without consulting them. Thus, instead of being a measure for their safety, it becomes a measure of isolation. In addition to this, these CAR are not habitable (confined and cold spaces, without ventilation nor green areas nor intimacy) and compromise their safety (locked confinement in their bedrooms at night) and integrity (stigmatizing treatment that refers to the situation of prostitution, humiliating punishments and sexual violence).

In 2016, a 16-year-old adolescent victim of human trafficking accused a worker from the shelter where she was located for sexually abusing her⁸, and this person was not prosecuted.

Recommendations suggested for the 3rd cycle of the UPR:

- Develop and implement a comprehensive Health Care Protocol for victims of human trafficking with a gender approach, taking into consideration especial treatment for children and adolescents, and report about this matter during the 4th cycle of the UPR.
- Implement police stations, prosecutors' offices and courts specialized exclusively on human trafficking crimes.
- Ensure that the admission of trafficking victims to the Residential Care Centers (CAR) is not against their will and that it does not have an indefinite duration. Furthermore, establish protocols for prevention and administrative sanction of violence within these centers.
- For the National Council of Magistrates (CNM) to readily sanction the magistrates of the Permanent Criminal Chamber of the Supreme Court of Justice who issued the Appeal for Annulment N°. 2349-2014 that left unpunished a case of trafficking for purposes of sexual exploitation where the victim was a 14-year-old girl.
- For the National Council of Magistrates to implement training on the use of the gender approach in the judicial function and to report on this matter in the next 2 years.
- Train officials from the Office of the Attorney General and the National Police Force of Peru in the assistance to victims of trafficking with due regard to the gender approach, and to report on this matter in the next 2 years. Furthermore, devise any training programs in consultation with civil society groups.

Preguntas sugeridas:

- **What measures have been taken for the assistance to the victims of human trafficking for purposes of sexual exploitation, specially when they are girls and adolescents?**
- **What measures for the prevention of human trafficking for the purposes of sexual exploitation have been developed?**
- **Why the magistrates of the Permanent Criminal Chamber of the Supreme Court of Justice who issued the Appeal for Annulment N°. 2349-2014 have not been sanctioned despite having been reported approximately a year ago to the National Council of Magistrates?**

⁷ Terre des Hommes Suisse, Colectivo Tarpuy, GIN. Documento de Trabajo: *Protegidas o Revictimizadas Alerta nacional sobre el modelo de gestión en los CAR de víctimas adolescentes de trata de personas. (Work Document: Protected or revictimized. National alert on the management model of CARs for adolescents victims of human trafficking).*

⁸ Available at: <http://larepublica.pe/impresia/sociedad/811210-acusan-ex-empleado-del-inabif-de-abuso-sexual-contra-menor>