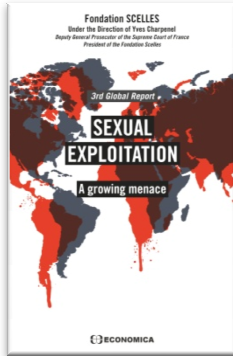




Fondation Scelles

Connaître, Comprendre, Combattre
l'Exploitation Sexuelle

Taking responsibility for child prostitution in France



From :

Fondation Scelles, Charpenel Y. (Under the Direction of), *Sexual Exploitation – A growing menace (3rd Global Report)*, 2013.

© Fondation Scelles, 2013

Though child prostitution¹ proves difficult to understand, due to the circulation of minors and the often underground character of this form of sexual exploitation, it is estimated that the number of child prostitutes in the world stands near three million. Even more alarming, 50% of those concerned are believed to have begun prostitution under the age of 18, and the average age of prostitutes is between 13 and 14 years old on the global scale (*Le Monde*, 27 janvier 2012).

Though France is well equipped with an arsenal to repress this phenomenon, which was recently denounced by the Association Contre la Prostitution des Enfants (ACPE) in an open letter addressed to Valerie Trierweiler, it cannot fully escape it (*Le Nouvel Observateur*, June 10th, 2012). According to the ACPE, there are 6,000 to 8,000 minors prostitutes on French territory. These children are both male and female, regular and occasional workers, and are present in the nation's capital, which contains roughly 1,000. Despite difficulties in gaining reliable numbers on this illegal activity, it is estimated that 70 to 80% of these children are foreign-born, with many coming from Asia, Africa, and Eastern Europe.

Facilitated by the vulnerability of minors, the rapid growth of the Internet and highly precarious socio-economic situations, child prostitution is not solely the product of criminal activities. Numerous children are in fact exploited by a close friend or family member. In December 2012, *L'Est Républicain* reported a case of a 17 year-old minor who was working in prostitution under the constraints of her oldest sister in Montbéliard. In addition to the victims of foreign trafficking networks, isolated minors are also the principal party exploited by child prostitution. In October 2012, 17 people were taken into questioning in Iserre for facts related to the procuring of minors who had run away from home (*Le Figaro*, October 1st, 2012). Many young female victims are also victimized by men with whom they had fallen in love, as shown by the *loverboys* phenomenon. In September 2012, the correctional tribunal of Avignon condemned a 17 year-old boy to 30 months in prison for having seduced and convinced numerous young girls prostitutes (*La Provence*, September 20th, 2012). Even prostitution which is deemed "voluntary" and pre-prostitution behaviors are developing in a disturbing fashion and appear to affect all social backgrounds. Due to the particular forms of practice, the supply of sex services in

exchange for non-monetary compensation (housing, consumer goods, nights out, or drugs) young people working in these schemes are often unaware that they have stepped foot into the world of prostitution.

The diversity of international texts

Numerous international texts demonstrate the will of states to create a better system of taking responsibility for victims of child prostitution.

Within the United Nations, the International Convention on the Rights of the Child (UNCRC) puts the obligation of protecting minors against all forms of sexual violence and exploitation onto the shoulders of individual countries. This convention nevertheless lacks the ability to have a direct effect, in so far as it gives great freedom to individual countries. Complementary to the UNCRC, the optional protocol of May 25th, 2000 on the sale of children, prostitution and child pornography, defines child prostitution clearly. It emphasizes the necessity of countries to protect the rights and interests of minor victims, by promoting the development of adapted legal procedures, allowing the severe punishment of adults involved in these acts of prostitution committed against those younger than 18. Highlighting the importance of increased awareness in the public and interstate cooperation, the protocol of May 25th 2000 had a direct effect on the internal legislation of signing countries. In France, the law of March 4th 2002 relative to parental authority took the recommendations of this text into account to suppress the involvement of young persons in prostitution.

Within the European Union, the Charter of Fundamental Rights of December 7th 2000 gives children a collection of rights including the right to protection and care. The decision relative to Combating the Sexual Exploitation of Children and Child Pornography of December 22nd, 2003 obligated states to incriminate child pornography, whose

definition is now spelled out clearly within the Union's legal framework. In addition to the Recommendation on the Protection of Minors from December 20th, 2006 and the Directive of December 13th 2011 relating to combating sexual abuse, the sexual exploitation of children, and child pornography signifies the will of the European Union to increase their responsibility for minors who are victims of prostitution. Beyond its section dedicated to the reduction of child prostitution, the directive highlights the importance of prevention and insists on the necessity of providing aid adapted to minors, an aid which continues, "as long as the child is not reestablished." Countries also remain free to take additional measure that they judge to be well adapted for the betterment of their responsibility toward child prostitutes.

Within the European Council, the Convention for Combating Human Trafficking of May 16th, 2005 includes a certain number of dispositions directly related to taking responsibility for victims of sexual exploitation. It imposes on nations the obligation to take necessary measures for identification (article 10) and for assisting those who are victims of prostitution. This text also obligates the concerned parties to take the necessary measures to allow the assistance of victims in their physical, psychological and social reestablishment, while taking into account the specific security needs of those concerned. The convention also stated that the assistance given must take the individual needs of children into account, and cannot be given in exchange for a victim's legal testimony (article 12). It is expected that the aid given to victims of human trafficking will include a reliable and appropriate form of housing. Though the convention is not specifically dedicated to combating child prostitution, the Recommendation (2005) of the Committee of Ministers to member states on the rights of children living in residential institutions also put forward numerous measures which take effect once a child forced into prostitution is

removed from his or her family's custody by legal decision. The recommendation notes that each placement must guarantee the full respect of the child's fundamental rights. According to the recommendation, placing a child outside of his or her home is justifiable only in cases where the current environment is a direct exposure to danger. More recently, the Convention of the Protection of Children Against Sexual Exploitation and Sexual Abuse reinforces the mechanisms used in combating sex tourism. Finally, a program entitled Building a Child-Friendly Europe: Turning a vision into reality (2012-2015) was put into place in order to keep track of the efficacy of existing precedents concerning the rights of children.

An application judged satisfactory on an internal level

Despite numerous international texts, it is clear that the protection of child victims of sexual exploitation is often far from efficient on the national scale. The responsibility that the state owes to its children appears insufficient in numerous developing countries.

However, the recommendations enunciated on an international level are not without effect; numerous countries armed themselves with a set of laws meant to reduce the number of adults involved in acts of prostitution against children. In France, for instance, article 13-I of the law passed on March 4th, 2003 relating to parental authority states that, "child prostitution is prohibited within all territory of the Republic." This statement, however, is not meant to punish child prostitutes for their acts, since they are considered to be the victims. The only group whose acts are targeted, therefore, is the client.

Though this arsenal to reduce child prostitution is self-evidently necessary, it remains insufficient to assure the effective protection of child victims of sexual exploitation. The application of appropriate help remains fundamental to allow children to

definitively leave the "infernally circle" that is prostitution.

The difficult detection of cases involving child prostitution

Conditions prior to taking responsibility for the victims of child prostitution – their detection and their identification – remain hitherto insufficient. In a 2011 report on the sexual exploitation of children in France, the Special Rapporteur of the UN, Najat Maalla M'jid, highlighted that the extent of child prostitution within French territory was difficult to determine due to the official data on the subject. The clandestine nature of this phenomenon is often an obstacle to better understanding on the part of public powers. The facts at the heart of a decision rendered by the Appeals Court of Paris² on March 13th 2012 signify these difficulties. In effect, the personnel of a hotel where young Romanian women were forced to become prostitutes never revealed this fact to authorities, though they admitted to having known about what was taking place. The general inability to spot alarm signals constitutes an additional barrier to the evaluation of this specific type of prostitution. In France, there exists neither formalized procedures nor established criteria for the identification of minors forced into prostitution.

French legislation is not, however, exempt from the rule of law concerning this material. Generally, the detection of cases of child prostitution involves police authorities as much as institutional or associative actors. The Penal Code states that mistreatment and sexual acts committed against a child younger than 15 years old must be denounced through the punishment of penal sanctions as an offence punishable by three years of imprisonment and a 45,000 € fine. According to certain associations, the processes of signaling cases of child prostitution authorizes all those who have knowledge of child prostitution to warn health professionals who can follow up with

administrative or legal authorities. The process of filing a complaint regarding one or more of these legal infractions, meant to inform public prosecutors, should help the process of detection as well. The following parties are also capable of bringing to light acts of child prostitution: the victim, their parents or legal guardian, and any institution that aims to aid children in danger, which has functioned for five months or more (article 2-3 CPP). In practice, however, the victims remain hesitant to turn toward legal or administrative authorities, fearing their deportment or revenge on behalf of their traffickers. Given that NGOs encourage the steps taken by the victims, in practice they play a major role in contacting police and local authority services. The memorandum of February 5th, 2009 addressed by the Minister of Immigration to the prefects and general directors of police forces, calls upon these actors to allow the intervention of associations recognized for their assistance to victims. The defender of rights, in charge of assuring the respect of rights and liberties, is also called upon to play a theoretical role in the processes of taking responsibility for child prostitutes, insofar as it is his or her responsibility to hold the magistracy responsible, which appears to best justify the application of educative assistance measures.

French authorities keep track of the work that is done to help child victims of sexual exploitation. They indicate that putting Romanian police forces at the disposition of the Parisian police prefecture since 2011 has helped facilitate the identification of more than 200 young people originating from Romania. Certain projects aiming to facilitate the detection of child prostitutes also merit citation. Such is the case of the memorandum "Human Trafficking: Bringing down those responsible and protecting victims" which was distributed to all sections of the French gendarmerie and which contains precise directives with respect to the identification and protection of victims. In the same framework, a guide elaborated by the ECPAT-France and

the Brigade de Protection des Mineurs (Brigade of Minor Protection) was distributed in 2012 in order to facilitate the work of police detecting victims of human trafficking.

The absence of an institutional actor specialized in taking responsibility of child prostitution

Even though there does not exist a specific structure dedicated to child prostitution in the institutional framework of France, the need for one is not unknown by public authorities. Associations recognize France's high level of involvement in the fight against sexual exploitation of those less than 18 years old.

The law of March 4th 2002 *relative to parental authority* states in article 13 II that, "All minors who take part in prostitution, including those who do so occasionally, are deemed to be in danger and must be granted the protection of juvenile judges under the educational assistance procedure." Considered by French legislation as a victim that must be protected, the child prostitute benefits in full right from these protective measures. The diverse institutions of child protection, whether administrative or legal, have the duty to intervene in order to care for and aid minors in distress.

After the child, his or her parents, or public prosecutors signal abuse, the Juvenile Judge can take urgent measures in order to preserve the health, security, or the morale of the minor in danger. The child who is the victim of acts of prostitution will often be placed in a center specialized for the ordinances of article 375 of the civil code. In case of emergency, public prosecutors may also order the placement, as a provisional placement which will then be confirmed or annulled by a juvenile judge within a maximum of three weeks.

Responsible for, "questions concerning the justice of minor and the communication

between institutions intervening of behalf of justice,”³ the Direction de la Protection judiciaire de la Jeunesse (DPJJ - Direction of the Legal Protection of Youth) is also called forth to play a major role in taking responsibility for child prostitutes. In addition to its diverse actions of education and reintegration, it is the Direction’s responsibility to apply the decisions of legal tribunals for children regarding their placement in the 1,500 existing structures. The child victim can also be referred to social help services for children (ASE - Aide social à l’enfance). Aiming to propose a material, educational and psychological support system to minors confronted with social difficulties (L221-1 of the social and familial action code), the ASE can also reunite the child with a member of his or her family, or welcome the child into a specialized establishment.

This placement seems to be, in practice, the measure which is most often applied by juvenile judges in order to protect the victims of child prostitution. The appeals court of Rouen, on November 9th, 2009⁴ confirmed the placement of two minors after the process of investigating and of educational orientation previously ordered concluded that “the actions of two children, in a precarious context, revealed how horrible their prostitution scenarios were.”

The role of welcoming centers for the protection of children, taking concrete responsibility for child prostitutes

In terms of assisting victims, authorities intervene frequently according to the bias of the NGO that supports them. Generally, these are organizations that offer assistance and legal counsel to victims. Taking concrete responsibility for victims is centered on three separate axes.

Access to care and psychological support comprises the first axis. In a report on the health concerns of prostitution presented in December of 2012 to the Minister of Women’s

Rights, Najat Vallaud-Belkacem, the Inspection Générale des Affaires Sociales (IGAS - General Inspection of Social Affairs) stated their concern for, “the situation of young minors becoming prostitutes.” Beyond the inherent risks of prostitution (HIV, hepatitis, violence), child victims are increasingly affected by “pathologies stemming from precariousness” (respiratory problems, addictions, or psychological disturbances). These problems develop as a result of isolation, precarious housing conditions, and the clandestine nature of their work. The inexperience and misunderstanding of the young eventually limits their possibilities of accessing means of prevention and care.

Frequently exposed to violence, victims often appear incredibly fragile on a psychological level. In this way, in a decision handed down on December 6th 2012 by the Appeals Court of Paris⁵ a young Romanian girl named Daniela X was called to testify against a man she had met in a nightclub in Romania. Taken into questioning by the police, the young girl was placed into state housing. Psychological reports put together on her behalf revealed egregious difficulties: “loss of appetite, headaches, stomach aches, difficulties sleeping, inability to form relationships with adults or peers.” In order to determine the influence the acts had on her health and personality, and in order to guarantee her placement in an adapted treatment center, article 706-48 of the procedural Penal Code states that the child prostitute may be subject to expert medical-psychological examination. Though it is optional, these examinations on behalf of experts are often ordered by the public prosecutor during the stages of investigation, or by the judge.

The second axis of taking responsibility for the child victims of sexual exploitation is **education**. Education appears as the necessary condition for the reintegration of young children who are often not attending school. Aiming to reintegrate the minor by placing him

or her into the daily life of a group, the procedure of educational assistance supposes prolonged individual surveillance adapted to the personality of the victim. Numerous welcoming centers work in order to house and professionally educate young victims of sexual exploitation in order to give them the chance to leave prostitution. Working directly with the DPJJ and the services of the ASE, the *Lieu d'Accueil et d'Orientation* (LAO) of foreign, isolated minors that is run by the Red Cross of Taverny receives young minors who were placed into state housing due to their involvement in prostitution. In general, this undertaking of educational responsibility appears effective. According to a study conducted by the NGO *Hors la-Rue* in 2005, out of 418 isolated minors, 90% of those placed received an education and short-term professional skills trainings.

Taking responsibility for child prostitutes rests similarly on the third axis, **information and accompaniment in all steps**. The goal is to establish a dialogue with the child in order to explain their rights and the procedures that may help him or her, especially when the child in question is an immigrant.

If the child victim has the right to be housed in a home provided by the services of ASE, associations unfortunately acknowledge that there does not exist similar procedures of “secure welcoming” applicable to adult victims of human trafficking. The project of the *Off the Streets* foundation, aiming to allowing child victims to live far away from their exploiters, has not achieved its end. In practice, placement does not allow associations to fully take children out of the hands of sexual exploitation networks. The members of these networks willingly try to contact and convince minors to return within state housing.

As with any other child, those who are exploited are also entitled of specific rights, including the right to be heard by the French justice system. Once a child is in the custody of the institutional actors or association, the

child must be informed of his or her rights according to article 388-1 of the civil code, following the law of March 5th, 2007 *relative to the protection of childhood*. The child victim also has the right to an attorney (article 388-1 paragraph 2, Civil code and article 20-2 of the Directive of 12/13/2011); it is important that the child can benefit from legal counsel and from appropriate defense. This right appears similar to the right of a child to be accompanied “throughout the investigation or judicial hearings” (article 706-53 Penal Code and article 20-3 paragraph f. of the Directive of 12/13/2011). The goal of this accompaniment is twofold: to reassure the child with the presence of a family member or specialized medical professional, and to facilitate the work of investigators. Despite these rules and regulations laid out by law, numerous associations cite the rare application of these procedures in cases involving child prostitution.

While judging the “satisfactory” measures put into place, certain associations regret that the application of these measures remains insufficient, due notably to a lack of means and the absence of coordination between independent actors responsible for child protections services. In a report in 2002 on “public politics and prostitution,” the French senate highlighted the necessity of raising awareness of prostitution through information distribution and public campaigns. It stated the “indispensable” nature of intervening in schools in order to promote an egalitarian education of the problem and recommended “to involve the Ministry of National Education,” in order to tackle the question of prostitution in the framework of a mandatory school curriculum.

Recently, the report of September 18th, 2012 of IGAS on “the health concerns of prostitution,” underlined the necessity of bringing particular attention to minors and to immigrants in unstable situations, and to better “approach the hidden side of prostitution.”

This approach sites the importance of Internet monitoring.

In conclusion, if welcoming child victims of prostitutions appears to be a first step toward their reintegration into society, a minority of the children involved in the underworld of sex work has hitherto received necessary social services⁶.

Sources

- « Elle prostitue sa jeune sœur pour s'acheter un téléphone portable », *L'Est Républicain*, December 6th, 2012.
- « Il poussait ses copines à se prostituer », *La Provence*, September 20th, 2012.
- « La prostitution en pleine expansion, femmes et mineurs en première ligne », *Le Monde*, January 27th, 2012.
- « Lettre ouverte à Valérie Trierweiler : et si vous souteniez les enfants prostitués ? », *Le Nouvel Observateur*, June 10th, 2012.
- « Proxénétisme: 17 personnes interpellées », *Le Figaro*, October 1st, 2012.
- « Une experte encourage la France à mieux protéger les enfants contre l'exploitation », *UN News Center*, December 2nd, 2011.
- Aubin C., Jourdain-Menninger D., Emmanuelli J. (Dr), *Prostitutions : les enjeux sanitaires*, Inspection générale des affaires sociales (IGAS), December 2012.
- Derycke D., *Les politiques publiques et la prostitution*, Information report on the activity of the Delegation of women's rights and of equal opportunities between men and women for the year 2000, No 209(2000-2001), Sénat, January 2001.

- Dhervilly L., Cretu M. R., Hilken H.-D., Bellet P., Ispas A., Trunk S., Barbier Sainte Marie S., Zimmermann M. G., *Manual of good practices concerning the reinforcement and legal cooperation in order to fight against human trafficking, sexual exploitation of children, and child pornography in the European Union*. Project "Strengthening judicial co-operation in combating trafficking of human beings in the European Union," European Union specific programme "Criminal Justice 2010", Bucharest, 2013.
- ECPAT, *Guide de bonnes pratiques, L'exploitation sexuelle des enfants à des fins commerciales : détecter les victimes et initier les enquêtes*, in : Rapport d'activités 2012, ECPAT-France, 2013.
- Joseph V., « Un sujet peu traité : la prostitution des mineurs », *Les cahiers dynamiques*, n.53, December 2011.
- O'Deye A., Joseph V., *La prostitution des mineurs à Paris : Données, acteurs et dispositifs existants*, Cabinet Anthropos, Ministry of Justice, October 2006.
- Association contre la prostitution des enfants (ACPE) : <http://www.acpe-asso.org>
- Council of Europe: <http://www.coe.int/aboutcoe/index.asp?Lang=fr>
- ECPAT France : <http://www.ecpat-france.fr/ecpat.html>
- The French Ministry of Justice, file: « mineur contraint à la prostitution » <http://www.vos-droits.justice.gouv.fr/mineurs-victimes-11965/mineur-contraint-a-la-prostitution-20719.html>

¹ Prostitution is defined by the optional protocol CRC on the sale of children, prostitution and pornography involving children of May 25th, 2000 as "using a child, a minor, in sexual activities in exchange for remuneration or other advantages".

² Appeals Court of Paris, Pôle 6, Chamber 10, Decision 07/0172, March 12th, 2012.

³ Decree of July 9th, 2008 relative to the organization of the French Ministry of Justice.

⁴ Appeals court of Rouen, chamber of minors: decision 10/03711 of November 9th, 2010.

⁵ Appeals court of Paris, Pôle 2, Chamber 4, decision 12/05235, December 6th, 2012.

⁶ « Trajectoires et prise en charge de mineurs roumains », *Revue-plurielles*, n. 20.