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Speedy ratification of the International Convention of 2nd December 1949 for the Suppression of the Traffic in Persons and of the Exploitation of Prostitution

Report¹

Social, Health and Family Affairs Committee

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A. Draft Recommendation

The Assembly,

Having regard to the Statute of the Council of Europe;

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms;

Considering that the traffic in persons for prostitution and the exploitation of the prostitution of others are incompatible with the dignity and worth of the human person, are a flagrant violation of the individual freedom of their victims, encourage the growth of a criminal class living on the fringe of the law and flouting the rule of law and, furthermore, represent a complete denial of the spiritual and moral values which are the common heritage of the peoples whose Governments founded the Council of Europe ;

Considering that many cases of the expatriation of persons for the purpose of exploiting them or others as prostitutes have been established in recent years, that nationals of the Member States have been involved and that such acts have been committed in their territories ;

Considering that a convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others was approved by the United Nations General Assembly on 2nd December 1949, that the world-wide ratification and implementation of this convention would put an end to the situation described above and that this convention, which entered into force on 25th July 1951, has since been ratified by certain States and acceded to by others, but has been ignored by most of the Member States of the Council of Europe,

1. Recommends to the Committee of Ministers that they urge the Governments signatories to this convention to ratify it if they have not yet done so — and that they call upon the other Governments to accede to this international instrument ;
2. Requests the Committee of Ministers to inform it of any action taken on this Recommendation.

B. Explanatory Memorandum

1.

Public opinion has been deeply disturbed for some years at the disappearance of a number of women, some of whom at least are engaged in prostitution. Flagrant examples of this traffic have been brought to light. There are other cases where women may have agreed to expatriation, but at the instigation of procurers who are exploiting their prostitution.

This state of affairs, which reduces woman to a state of bondage reminiscent of the slavery of ancient times, is not a new phenomenon, but has steadily increased since the war owing to the facility of travel and the multiplicity of international contacts. Since there can be no question of curtailing freedom of international movement, we must look elsewhere for a remedy to this major scourge of our times.

The international community has given attention to the traffic in and exploitation of prostitution for more than half a century, and a series of conventions have been concluded in this field:

1. International Agreement of 18th May 1904 for the suppression of the white slave traffic,
2. International Convention of 4th May 1910 for the suppression of the white slave traffic (women below age and of full age, under duress),
3. International Convention of 30th September 1921 for the suppression of the traffic in women and children,
4. International Convention of 11th October 1933 for the suppression of the traffic in women of full age (even with their consent, from one country to another),
5. Convention of 2nd December 1949 for the suppression of the traffic in persons and of the exploitation of the prostitution of others (with a view to suppression of procuring in any form and in any country as practised against any person within or without the boundaries of the State).

This succession of agreements reveals a two-fold trend. Whereas the first agreement was entirely the work of European States, the later ones arose from conferences sponsored by an increasing number of other States. At the same time, the range of such offences was extended, that is to say acts which at first received no more than moral censure were later declared unlawful both by the new conventions and by national legislation.

Our purpose in stressing the predominant role played by the European peoples in this field is to show that the work already done and still to be done is in keeping with the aims of the Council of Europe. It calls to mind the preamble to the Statute, which refers to " the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom... " and Article 3 which lays down " the principle of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms ".

Organised prostitution is a denial of spiritual and moral values and a violation of the human rights defined in Articles 3, 4 and 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

There are two aspects to the 1949 Convention. On the one hand, it codifies and modernises the rules dispersed throughout preceding international instruments, offers the convenience of a clear consolidated text instead of four separate agreements, and adapts to present-day needs certain provisions drafted half a century ago.

On the other hand, it goes further than all previous agreements:

it extends the field of prohibition to all forms of exploitation of the prostitution of others, whether of adults or minors, with or without their consent, and whether the offence is committed inside or outside the country;

it makes no distinction as to sex;

it recommends the payment of damages to injured persons whose physical and mental health, reputation, or future prospects are seriously compromised by the practice of prostitution;

it encourages all social, economic, health and educational measures for the prevention of prostitution and the rehabilitation of the victims;

it calls for special measures for the protection of immigrants or emigrants and, in particular, women and children, both at the place of arrival and departure and en route, and for appropriate supervision at railway stations, airports, seaports en route and at other public places, in order to prevent international traffic in persons for the purpose of prostitution;

it requires that declarations be taken from aliens who are prostitutes, in order to establish their identity and civil status and to discover who has caused them to leave their State. Such information is to be communicated to their State of origin. This is one of the most important articles. It is too common an occurrence, when the police authorities arrest a foreign prostitute, for them to conduct her to the frontier without further enquiry, whereas it is only too obvious that a prostitute would not be expatriated unless she were enrolled, on departure and arrival, in a fully-fledged organisation. It is the machinery of such organisations that must be brought to light if a more successful campaign is to be waged against them..

finally, the Convention insists on the organisation of appropriate publicity warning the public of the dangers of this traffic.

Thus, the Convention of 2nd December 1949 seems to be adapted to the present requirements of the campaign against the traffic in and exploitation of the prostitution of others.

The basic principles of the Convention are set forth in Articles 1, 2 and 6:

Article 1: The Parties to the present Convention agree to punish any person who, to gratify the passions of another:

- 1. Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;*
- 2. Exploits the prostitution of another person, even with the consent of that person.*

Article 2: The Parties to the present Convention further agree to punish any person who:

- 1. Keeps or manages, or knowingly finances or takes part in the financing of a brothel;*
- 2. Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others. The Convention makes no pronouncement on the lawfulness of prostitution, but allows domestic legislation full latitude in this respect. It is the action of third parties which must be effectively curbed in order to safeguard individual freedom and reduce the social damage caused by organised prostitution.*

Article 6: Each Party to the present Convention agrees to take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification..

This Article was inserted not only because the registration of prostitutes discriminates unfairly between the sexes, since no compulsory health precautions are required of those who frequent such women, who, obviously, outnumber them by far, but also because it places a moral stigma on the prostitute which makes it very difficult for her to return at a later date to a socially and economically normal life. Such registration is more likely to tie her to her profession. Moreover, it encourages dissolute living, since it provides an apparent, but illusory, guarantee of good health. The fact is that a prostitute has time to contract a disease from one customer and transmit it to many others in the interval between medical inspections, however frequent these may be.

The fact that the United Nations General Assembly agreed to this solution by adopting and improving a text which was first studied by the League of Nations in 1927, was screened by numerous committees of experts, then by the Social Commission of the U. N. Economic and Social Council and lastly by the Economic and Social Council itself, is a guarantee that it is the result of mature reflection. Moreover, it has been strongly canvassed for many years by the non-governmental organisations specialising in this field, namely the International- Abolitionist Federation, founded in 1875, and the International Bureau for the Suppression of Traffic in Persons, founded in 1899, as well as by many private organisations specialising in the protection and rehabilitation of women.

Thus the accession of all States to this Convention would outlaw all forms of exploitation of the prostitution of others. It would enable a sufficiently high proportion of breaches to be discovered to discourage this type of crime, to limit the exploitation of women by procurers and to reduce the kidnapping of women for purposes of prostitution and their recruitment under sham contracts in order to engage them as prostitutes abroad or even in the home country.

Of the nineteen countries which have ratified or acceded to the 1949 Convention, to the best of our knowledge only one is a Member State of the Council of Europe. This gap must be filled, as a point of honour for our Governments. For this reason the above draft Recommendation is hereby submitted to the Assembly.