

**PERMANENT MISSION OF BARBADOS TO  
THE UNITED NATIONS OFFICE AT GENEVA**

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October 29, 2004

Ms. J. Philpot- Nissen  
Office of the High Commissioner for Human Rights  
United Nations  
CH1211  
Geneva 10  
October 29, 2004

Dear Ms. Philpot-Nissen,

I wish to refer to the correspondence received from the Office of the High Commissioner for Human Rights requesting States to provide information for inclusion in the Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography which will be made before the 61st Session of the Commission on Human Rights in March 2005.

The Government of Barbados has forwarded the enclosed information in response to the questionnaire accompanying the request from the Special Rapporteur and I hope that it will be useful in the preparation of your report and reflected in your presentation before the Commission on Human Rights.

Yours sincerely,

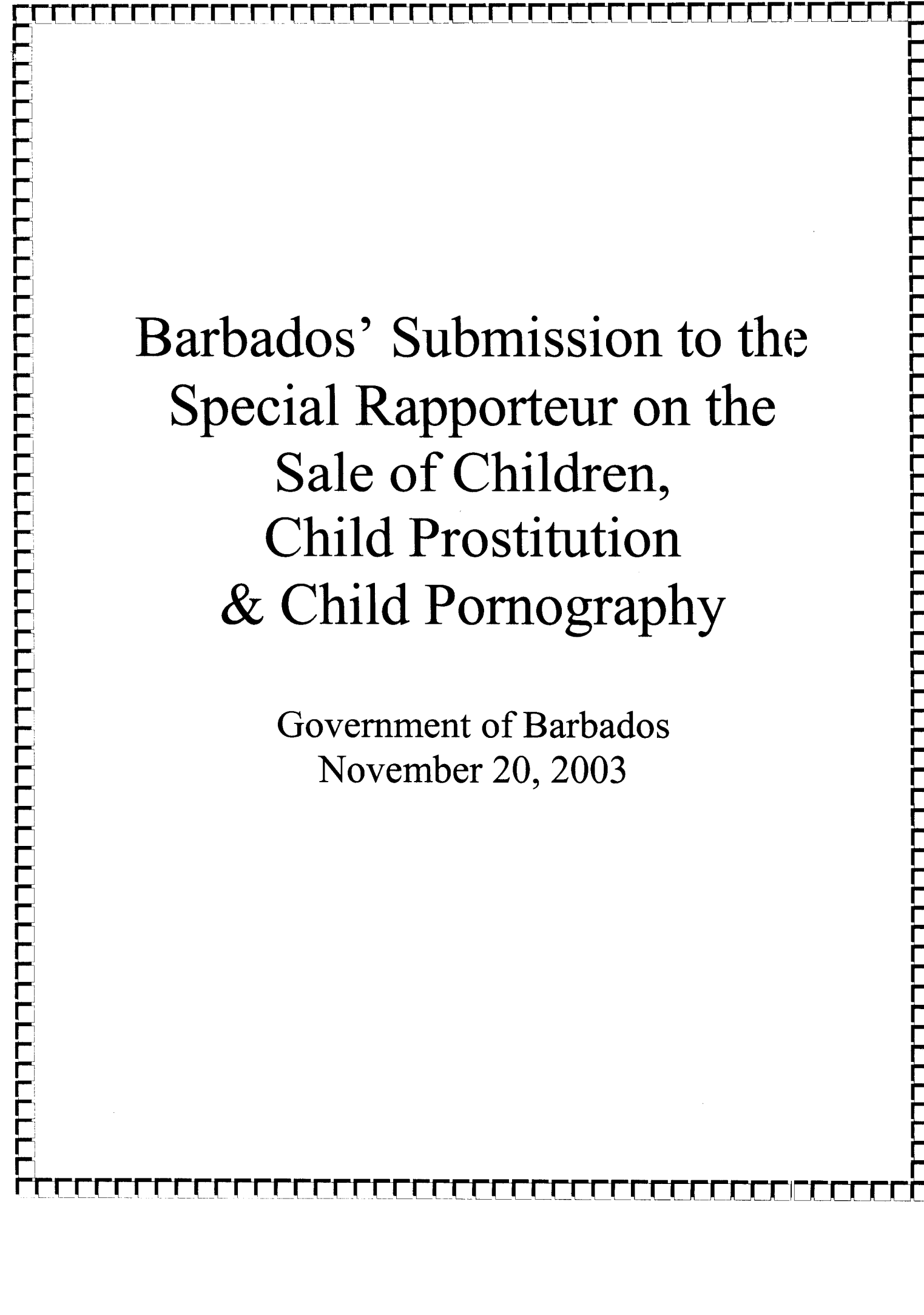
C. Trevor Clarke  
Ambassador  
Permanent Representative

OHCHR REGISTRY

29 OCT 2004

Recipients : ..... *S.P.B.* .....

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Barbados' Submission to the  
Special Rapporteur on the  
Sale of Children,  
Child Prostitution  
& Child Pornography

Government of Barbados  
November 20, 2003

The Convention of the Rights of the Child was adopted by the General Assembly of the United Nations with Resolution 44/25 of November 20, 1989. Barbados signed the Convention on April 19, 2000 and ratified it on October 9, 2000.

In accordance with its obligations as set forth under Article 44 of Resolution 44/25, the Government of Barbados herewith submits its report to the Special Rapporteur on the sale of Children, Child Prostitution and Child Pornography.

## **SECTION A**

### **The Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography**

Q.1. Has your country signed the Optional Protocol on the sale of children, child prostitution and child pornography?

A.1. No.

Q. 2. If not, to your knowledge has your country taken steps to do so? If so, please describe.

A. 2. The relevant authorities are currently reviewing the possibility of accession.

Q. 3. Has your country ratified the Optional Protocol on the sale of children, child prostitution and child pornography?

A. 3. As at A2.

Q. 4. If not, to your knowledge has your country taken steps to do so? If so, please describe.

A. 4. As at A2.

## **SECTION B**

### **Sale of Children**

Q. 5. Is sale and trafficking of children a criminal offence in your country?

Q. 6. If so, who is criminally liable?

A. 6. The sale and trafficking of children is a criminal offence under a number of statutes in Barbados. The Offences Against the Person Act, Section 30 prohibits the unlawful removal of any person without that other person's consent or the consent of some person legally authorized to consent on that other's behalf and makes such removal of a person including a child punishable on conviction to imprisonment for life.

Even more directly, Section 33 of the Offences Against the Person Act makes it a criminal offence for any person to import, export, remove, buy, sell or dispose of any person as a slave or to accept, receive, detain against his will any person as a slave and makes any person convicted thereof liable to imprisonment for life. Whilst that section is general in its application, it obviously also applies to the sale and trafficking of children.

The Adoption Act, Cap. 212 also makes it an offence for an adopter, or for a parent or guardian of a minor to receive, except with the sanction of a court any payment or other reward in consideration of the adoption of a minor or for any person to agree or to make any payment to an adopter, parent or guardian of a child in connection with the adoption of a child. It is also a criminal offence for any person to advertise any child for adoption.

Q. 7. Have there been any prosecutions in your country related to the sale or trafficking of children? Please give any available details of cases in 2001 and 2002;

- A. 7. There have been no prosecutions in Barbados relative to the sale and trafficking of children.

### **Children Prostitution**

- Q. 8. Is prostitution involving children a criminal offence in your country?

- A. 8. Yes, prostitution involving children is a criminal offence in Barbados.

- Q. 9. If so, who is criminally liable?

- A. 9. Under the Sexual Offences Act, 1992 Section 13, a person who procures a minor under the age of 16 years to have sexual intercourse with any person whether in Barbados or elsewhere or procures another for prostitution, whether the person is already a prostitute either in Barbados or elsewhere is liable on conviction to imprisonment for 15 years.

Under Section 17 of the Sexual Offences Act, an owner, occupier, manager of premises or a person having control of premises or assisting in the management of premises who induces or knowingly suffers a minor under the age of 16 years to resort to or to be in or upon the premises for the purpose of sexual intercourse with any person is guilty of an offence and where the minor is under the age of 14 years, that person is liable on conviction to be sentenced to imprisonment for life and where the minor is between the age of 14 and 16, is liable to a term of 10 years.

Under Section 20 of the Sexual Offences Act, a person who for the purpose of gain exercises control, direction or influence over the movements of a prostitute in a way which shows that the person is aiding and abetting or compelling the prostitution is guilty of an offence.

Q. 10. Have there been any prosecutions in your country related to child prostitution?  
Please give any available details of cases in 2001 and 2002.

A. 10. There have been no prosecutions in Barbados relative to child prostitution.

### **Child Pornography**

Q. 11. Is Child Pornography a criminal offence in your country?

A. 11. Child Pornography is a criminal offence in Barbados.

Q. 12. If so, who is criminally liable?

Section 3(1) of the Protection of Children Act, Cap. 146 A states that any person who takes or permits to be taken any indecent photograph of a child or distributes or shows an indecent photograph of a child; or has in his possession indecent photographs of a child whether or not with a view to their being distributed or shown by that person or others; or publishes or causes to be published an advertisement likely to be understood as conveying that the advertisement distributes or shows indecent photographs of children or intends to do so is guilty of an offence.

Q. 13. Have there been any prosecutions in your country for child pornography? Please give any available details of cases prosecuted in 2001 and 2002.

A. 13. There has been one prosecution of child pornography in 2001 and none for 2002. In the mentioned case, three males were charged with the offences under Section 3(1) of the Protection of Children Act. These persons pleaded guilty to the offences and were placed on probation.

## **Criminalisation of Children**

- Q. 14. Are children criminally liable in cases where they;
- a) are involved in prostitution?
  - b) are involved in pornography?
  - c) have been sold?
  - d) have been trafficked?

A. 14a. The Sexual Offences Act does not criminalise children who are the victims involved in prostitution. The aim of the Act is to protect children and not to criminalise them. There is no provision for children to be criminally liable under the Act if the child is involved in prostitution unless the child is over 16 years and falls within any of the categories of persons liable as outlined in the answer to Question 9. This is highly unlikely to be the case.

Section 14(1) of the Reformatory and Industrial Schools Act, Cap. 169 states that any person may bring before a Magistrate as presiding justice of a juvenile court any child apparently under the age of 16 years who is *inter alia* lodging, living or residing with common prostitutes or is in a house resided in or frequented by prostitutes for the purpose of prostitution or who is frequenting the company of common prostitutes. The aim of this section is to protect young children.

A. 14b. No, such children are not criminally liable.

A. 14c. No, such children are not criminally liable.

A. 14d. No, such children are not criminally liable.

A. 15. If yes to any of these, please describe the legal proceedings for the child, including information about the child's access to legal and medical assistance, and conditions of any detention.

A.15. In respect of a child held under Section 14 (1) of the Reformatory and Industrial Schools Act, the child would be taken to the Government Industrial School which is a residential institution and be brought as soon as possible thereafter before the Magistrate in the Juvenile Court. Juvenile Court is closed to the public. Legal Aid is available for the child under the provisions of the Community Legal Services Act. Where the child has been held by the Police, the child with the consent of the parent or the Child Care Board of Barbados may be taken to the Police Medical Officer or to a doctor chosen by the child's parent. Upon appearing before the Magistrate, the Magistrate is empowered, where the parent of the child claims him or her upon the first offence, to release the child to the parent upon the parent undertaking to be responsible for the good behaviour of the child for the next 12 months. Where there is reason to believe that the parent is not a fit and proper parent then the Magistrate may, where there is a relative for a period up to that child's 16 birthday and make such provisions as may be necessary for the parent of the child to provide maintenance for the child. In other cases, the child may be remanded to the Government Industrial School or the Child Care Board for care.

Q. 16. In any case, whether a child is considered to be a victim or a perpetrator:

- (a) Are there any national guidelines to instruct law enforcement officers/members of the judiciary etc., as to how to treat such children? If so, please include a copy if available.
- (b) Are there specialised prosecutors, judges and social workers assigned to the case?
- (c) Are there protection programmes for the physical security and safety of the child and other involved individuals prior to and during the trial of the case?
- (d) Are there rehabilitation programmes for the child (both as a victim and as the accused)? If so please describe.

- A. 16a. There are no national guidelines on how to instruct law enforcement officers as to how to treat such children. However, the Royal Barbados Police Force has issued a number of guidelines on how to treat these children.
- A. 16b. There are no specialised prosecutors or judges but in the Juvenile Court, there are usually social workers such as Probation Officers assigned to the cases and the Child Care Board assigns Child Care Officers to cases where it has knowledge of the matter or has been involved in any way.
- A. 16c. The situation differs according to who the perpetrator happens to be. If the perpetrator is the child's parent or parents with whom the child resides, then the Child Care Board seeks a Place of Safety Order in the Magistrate's Court for the child under the provisions of the Prevention of Cruelty to Children Act. In this event, the child may be placed in the home of an approved relative for safety or in one of the Child Care Board's homes. In some cases, the child is made a ward of the Supreme Court of Barbados and that court may grant an injunction restraining the parent or parents from having any contact with the child until the court so orders. The Royal Barbados Police Force is otherwise responsible for the security of children and other individuals prior to and during the trial of the case.
- A.16d. In matters reported to the Child Care Board, the Board does provide counseling for the victims in its care, either through its officers or through a Clinical Psychologist. The Royal Barbados Police Force also has a Victim Support Programme which provides counseling for victims of crime.

### **Age of Sexual Consent**

- Q. 17. What is the legal age of sexual consent in your country for females and males.
- A. 17. The legal age of sexual consent is 16 years for males and females.

Q. 18. Where the legal age of sexual consent is below 18, how does legislation in your country provide protection from sexual exploitation to these over the age of consent but under 18?

A. 18. The Sexual Offences Act, Cap. 154 offers to children over the age of 16 years the protection that it offers to every other person under the Act — that includes *inter alia* making it an offence for anyone to have non-consensual intercourse with another person and also includes the provisions cited above in respect of the protection from procuration for prostitution which also applies to adults. Section 12 of the Act also provides that a person who commits an act of serious indecency towards another or incites another to commit that act with the person or with another person is guilty of an offence and, if committed on or towards a person sixteen years of age or more or if the person incited is 16 years of age or more, then the person inciting or committing the act of serious indecency is liable on conviction to imprisonment for a term of 10 years.

The provisions of the Protection of Children Act, Cap. 146 A protect children up to the age of 18 years from being exploited by making indecent photographs or films of them. That law prohibits the taking of and/or the distribution of and/or the advertising of indecent photographs and also prohibits anyone from having such photographs in their possession.