

INTERNATIONAL JUDGES ASSOCIATION
Armenia, 2008

Sex offences: today's problems and effective solutions

QUESTIONNAIRE

Sexual exploitation in its various forms creates enormous responsibilities for Courts around the world. Sexual crimes also present great challenges. Victims are reluctant to testify. The privacy rights of complainant in the trial of a sexual offence often collide with the right of the accused to a fair trial. The trans-border internet transmission of child pornography and international human sexual trafficking present enormous challenges from the perspective of investigation and enforcement.

This year's questionnaire will survey the responses of member countries to evidentiary issues that frequently arise in sexual assault prosecutions, protections available to sexual complainants in sexual assault trials, and the sentencing of sexual offenders. We will also touch briefly on two subjects of universal concern, sex trade offences and internet child pornography, both of which merit further inquiry in the future by the Third Study Commission.

I. Sexual offences

1. Does your legal system criminalize conduct that is intended to lead to a sexual assault? *e.g.* grooming, spiking a victim's drink, trespassing on property with the intent to commit a sexual offence, etc.

☐ Yes ☐ No

If yes, provide details and refer to any problems with the prosecution of these types of offences.

2. (a) Are there legislative provisions or evidentiary rules in your legal system preventing or limiting the interrogation/cross-examination of a sexual complainant about his/her prior sexual conduct?

☐ Yes ☐ No

If yes, provide details. Are hearings on these issues held in public?

☐ Yes ☐ No

(b) Are there legislative provisions or evidentiary rules in your legal system that limit the access of an accused person to private records of the complainant (*e.g.* psychiatric or medical records) in a sexual assault trial?

☐ Yes ☐ No

If yes, provide details. Are hearings on these issues held in public?

☐ Yes ☐ No

3. In your legal system, can the prosecution introduce evidence of other sexual offences committed by the accused person at his/her sexual assault trial?

☐ Yes ☐ No

If yes, do any special rules apply to this type of evidence?

☐ Yes ☐ No

If yes, provide details.

4. Are there special protections available in your legal system for the complainant in a sexual assault investigation and trial? *e.g.* use of out-of-court video-taped testimony of complainant, use of screens to protect the privacy of the complainant in the courtroom, presence of a support person in the courtroom while the complainant testifies, self-represented accused prevented from interrogating/cross-examining complainant, etc.

☐ Yes ☐ No

If yes, provide details.

5. In your legal system, what is the age of consent to sexual activity? *e.g.* 14 years of age, 16 years of age, or some other age.

6. (a) Have Guidelines been established in your legal system for sentencing sexual offenders (including aggravating/mitigating factors)?

☐ Yes ☐ No

If yes, provide details.

(b) Does your legal system have special sentencing provisions for sexual offenders? *e.g.* preventing them from being in the presence of children under 18, from being near schools or playgrounds, requiring them to register with the local police?

☐ Yes ☐ No

If yes, provide details.

(c) Do special provisions exist in your legal system that deal at the sentencing hearing with the impact of the sexual abuse on the complainant? *e.g.* victim impact statements, submissions to sentencing judge by legal representative of sexual complainant, etc.

☐ Yes ☐ No

If yes, provide details.

II. Sex trade offences

7. Has your legal system adopted international conventions and/or its own legislative provisions relating to human sexual trafficking such as prostitution and sexual slavery? *e.g.* UN Convention against transnational organized crime, UN (Palermo) Protocol to prevent, suppress, and punish human trafficking, etc.

☐ Yes ☐ No

If yes, provide details. Do these international conventions/laws, protocols play an active role in decision-making by the Courts?

☐ Yes ☐ No

III. Internet child pornography

8. Has your legal system adopted special legislative provisions against the possession and distribution of internet child pornography?

☐ Yes ☐ No

If yes, provide details.

Thank you for completing this questionnaire. The responses will be tabulated and discussed at the next meeting of the Third Study Commission in Armenia in September 2008.