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The Presence of Children on the Market of Commercial Sexual Services as a Response to Deviant Needs of Adults

Summary

Sexual needs are one of the essential needs of the human person. At least, in the course of the socialization the individual should aspire to getting the sexual satisfaction in the way adapted for the value and social norms. An unremitting demand for sexual services is an essential problem of the modern world as its demand is leading to this being provided by children.

Keywords

Children, adults, deviation, sexual needs, commercial sexual services, sexual use.

Material and methods

A literature study and data analysis were adopted as research methods.

Results

Using sexual services provided by children, pornographic materials with children involved, sextourism and a trade in children are examples of ways adults are turning to, in order to meet one's deviant sexual needs. A clear majority of children involved in sex business is being forced towards such behaviours.

Conclusions

One should treat the data quoted in this article with great care and caution, leaning towards perceiving it as the lower limit of the phenomenon.

1. Introduction

“Need is the stimulus to concept, concept to action” – stated J. Steinbeck.¹ A complex character of needs² and a wide use of the term itself are the difficulties encountered in developing a consistent and quantified definition. J. Pyzik defines needs as something that is necessary for a man to maintain full health, stay alive, for his personal development, for achieving well-being, rest, efficient personal functioning and an appropriate OR adequate participation in the society.³ A.H. Maslow, in turn, believes that needs are connected with a factor that determines the conduct of the individual – he believes that deprivation of needs boosts human’s activity, it poses a motif to conduct actions aimed at eliminating an undesirable condition; that results in experiencing relief equivalent to obtaining satisfaction.⁴

Literature on the subject gives a diverse classification of human needs, however, due to the limited framework for the submitted study, only selected ones will be referred to. T. Kocowski extracts five groups of needs by dividing them into: existence needs (incl. alimentary, residential, health), procreation and growth needs (e.g. reproduction, care, educational and family needs), functional needs (incl. informational, locomotor, fitness), social needs (e.g. emotional bond, attachment, acceptance), psychological needs (e.g. erotic, esthetic).⁵ A famous concept of human needs by A.H. Maslow is also worth mentioning. He presents the existence of consecutive categories of needs: physiological (appetite, thirst, sleep, sexual needs, health needs), safety (e.g. feeling of confidence, reliance, care, freedom from fear), belonging and love (a need for other people to be present, to give affection and to receive affection), respect (desire for recognition and good reputation from other people), self-realization (desire for self-fulfillment).⁶ These needs are the basic elements of human life; they thrust/push the body to an action aimed at satisfying them.⁷

¹ J. Steinbeck, *Grona gniewu*, Warszawa 2012: Prószyński i S-ka.

² E. Jundziłł, *Potrzeby psychiczne dzieci i młodzieży*, Sopot 1998: UG.

³ J. Pyzik, *Potrzeby psychiczne dzieci i młodzieży*, “Wychowawca” 11 (1997), pp. 12–14.

⁴ A. Maslow, *Motywacja i osobowość*, Warszawa 2013: PWN.

⁵ T. Kocowski, *Potrzeby człowieka. Koncepcja systemowa*, Wrocław 1982: Zakład Narodowy im. Ossolińskich.

⁶ A. Maslow, *Motywacja i osobowość*, Warszawa 2013: PWN.

⁷ M. Łuka, E. Sęk, *Potrzeby człowieka współczesnego i ich zaspokojenie*, Stalowa Wola 2013: Wydawnictwo Diecezjalne i Drukarnia w Sandomierzu.

Sexual needs are distinctive for the human being. They are defined as qualities pertaining to the body based on “periodic formation of psychophysical tension that can be reduced by undertaking sexual activities, the consequence of which is sexual satisfaction.”⁸

In the progress of socialization, an individual should aspire to achieve sexual fulfilment in a way that is adapted to social values and norms.⁹ In relation to sexual behaviours, application of the criterion of norm is focused on determining and regulating the boundaries of interpersonal relationships, enabling an objective assessment of the sexuality of a given person or social groups, indicating people requiring special help and support, treatment or alienation due to the risk posed to the rest of society, and facilitating the understanding of problems in interpersonal relations.¹⁰ In the sexology references, clinical, partner, individual and functional norms are extracted. Clinical sexual norm is divided into 3 categories, i.e. an optimal norm (there are behaviours desirable in terms of specific system of values, fulfilling educational aspects), an acceptable norm (in legal, medical and cultural dimensions), and also a tolerated norm (being the result of a personality, partnership and situational context). The partner norm involves behaviours that are not included in the disorders list of International Classification of Diseases and Health Problems¹¹, and its border is indicated by: sex difference, maturity of sexual partners, bilateral acceptance, aspiration to bilateral pleasure, health respect and regard of sexual norms of social intercourse.¹² Meanwhile, the individual norm “refers to sexual practices and behaviours between an adult man and woman that is potentially aimed at three functions: biological (procreation), psychological (pleasure and satisfaction), social (realization of the need of interpersonal bond).”¹³

⁸ W. Ślósarz, *Zależności między potrzebą seksualną a wyznacznikami aktywności seksualnej*, “Seksuologia Polska” 2 (2003), p. 64.

⁹ M. Szymańska-Pytleńska, M. Beisert, *Diagnoza niedojrzałości psychoseksualnej sprawców przestępstw seksualnych wobec dzieci jako wyznacznik opracowania programu ich psychoterapii*, “Psychoterapia” 3 (2016), pp. 63–76.

¹⁰ Z. Izdebski, *Seksualność Polaków na początku XXI wieku. Studium badawcze*, Kraków 2012: UJ.

¹¹ Cz. G. Toboła, *Wybrane aspekty seksualności człowieka z niepełnosprawnością intelektualną*, “Zeszyty Naukowe Państwowej Wyższej Szkoły Zawodowej im. Witelona w Legnicy” 29 (2018), pp. 83–98.

¹² K. Waszyńska, *Biograficzne uwarunkowania życia seksualnego*, Poznań 2010: UAM.

¹³ K. Waszyńska, *Biograficzne uwarunkowania życia seksualnego*, Poznań 2010: UAM, p. 68.

The present study in which the adopted research methods were literature studies and analysis of existing data, is focused on analysis of the problem of the presence of children on the market of commercial sex services by assuming that sexual exploitation of children for commercial purposes is an answer to deviant needs of adults. As it was pointed out earlier, the pursuit of achieving the sexual fulfilment in a way that complies with applicable social norms, constitutes an aftermath of the socialization process of an individual; its appropriate adaptation to regulations stated by the environment. However, according to M. Mozgawa and M. Budyn-Kulik, the sexual norm and its adversarial term “deviation” are relative concepts with boundaries that evolve depending on a place, time, culture, and loosening moral norms is put on direct difficulties with determination of the precise boundary between a norm and deviation. There is a group of behaviours which expose a person to social ostracism.¹⁴

The term “deviance” that is part of/found in the title of the present article, implies a necessity to also make a short reflection on its meaning. Overall, deviance is “a departure.”¹⁵ Usually, in colloquial language, it is identified with deviation or going astray¹⁶, nevertheless, deviation could also be positive.¹⁷ A. Giddens states that deviation “could be defined as disobedience of the norms accepted by members of a particular community or society (...) term ‘deviation’ could be related to individual behaviours or group actions, as well.”¹⁸ A. Jaworska has a similar point of view. According to her, you might talk about deviant behaviour if you are sure that such a behaviour is incompatible with congruent norms accepted by a particular culture, in a given territory and time.¹⁹ As J. Kwaśniewski writes, an observation of a particular behaviour in categories that infringe

¹⁴ M. Mozgawa, M. Budyn-Kulik, *Prawnokarne aspekty pedofilii. Analiza dogmatyczna i wyniki badań empirycznych*, “Czasopismo Prawa Karnego i Nauk Penalnych” 2 (2006), pp. 43–78.

¹⁵ J. Kwaśniewski, *Czy istnieje dewiacja społeczna?*, “Prace Instytutu Profilaktyki Społecznej i Resocjalizacji” (2012), pp. 63–88.

¹⁶ J. Kopka, *Patologie współczesnego społeczeństwa w perspektywie socjologicznych koncepcji etiologii dewiacji społecznych*, in: G. Ignatowski, Ł. Sułkowski, Z. Dobrowolski (ed.), *Oblicza patologii zawodowych i społecznych*, Warszawa 2015: Difin, pp. 15–29.

¹⁷ M. H. Kowalczyk, *Dewiacja społeczna – destrukcja czy nowe możliwości?*, “Zeszyty Naukowe Wyższej Szkoły Gospodarki, Tom 27, Seria: Edukacja – Rodzina – Społeczeństwo” 1 (2016), pp. 131–144.

¹⁸ A. Giddens, *Socjologia*, Warszawa 2007: PWN, p. 224.

¹⁹ A. Jaworska, *Leksykon resocjalizacji*, Kraków 2012: Impuls.

norms accepted by a receiver, brings him out in a kind of dissonance and a sense of divergence between such behaviour and how one should act in a particular situation. Such dissonance is present when we experience a behaviour that we define as evil, and also in a situation when we experience a laudable deed.²⁰ The commented bipolarity of the phenomenon of deviance proves that people can “stray off” not only in the wrong direction but also in right one.²¹ The main issue of a negative deviance is a fact of undertaking emerging behaviours that are incompatible with accepted norms; behaviours that result in a social disapprobation, condemnation and repulsion. Subsequently, a positive deviance defines those behaviours that extend beyond the area of social indifference and, at the same time, bring a strong approbation of the society.²²

Taking into consideration the thematic scope of this study, according to A. Chromańska and D. Mocarska, it should be stated that the essence of deviance is the pursuit of an extraordinary sexual object or a way of sexual stimulation.²³ Sexual deviance is a disorder of sex drive, resulting in permanent or periodic (but long-standing) predilection to achieve sexual satisfaction that is conditioned by the presence of extraordinary and socially disapproved components, e.g. animals, objects, children. Subsequently, deviant sexual behaviour, regardless of the will of the individual, consists in “taking such an activity that provides fulfilling of a sexual need, however, it does not allow fulfilling other functions – social (by bonding) or reproductive.”²⁴ Meanwhile, deviant substitutive behaviours occur usually in situations when the right behaviour, though preferable by a maker, is not possible due to different factors. Among deviant substitutive behaviours one could differentiate consecutive categories: a maladjusted type (concurrent e.g. with mental disorders), a constricted type

²⁰ J. Kwaśniewski, *Czy istnieje dewiacja społeczna?*, “Prace Instytutu Profilaktyki Społecznej i Resocjalizacji” (2012), pp. 63–88.

²¹ M. H. Kowalczyk, *Dewiacja społeczna – destrukcja czy nowe możliwości?*, “Zeszyty Naukowe Wyższej Szkoły Gospodarki, Tom 27, Seria: Edukacja – Rodzina – Społeczeństwo” 1 (2016), pp. 131–144.

²² J. Kwaśniewski, *Czy istnieje dewiacja społeczna?*, “Prace Instytutu Profilaktyki Społecznej i Resocjalizacji” (2012), pp. 63–88.

²³ A. Choromańska, D. Mocarska, *Dewiacje i przestępstwa seksualne – klasyfikacja, aspekty prawne*, Szczytno 2009: Wyższa Szkoła Policji w Szczytnie.

²⁴ M. Mozgawa, M. Budyn-Kulik, *Prawnokarne aspekty pedofilii. Analiza dogmatyczna i wyniki badań empirycznych*, “Czasopismo Prawa Karnego i Nauk Penalnych” 2 (2006), pp. 46–47.

(when a child replaces an adult), a regressive-frustrated type (a person had sex with adult partners before, however, those sexual contacts were unsuccessful), a morally not distinctive type and a sexually not distinctive type.²⁵

2. Sexual exploitation of children for commercial purposes

When describing commercial sexual exploitation of children, it is necessary to determine the definition of a child. *Universal Encyclopedia PWN* states that the child is a man “in the first period of a postnatal personal growth (...), since the birth to the end of juvenescence; according to Christian theology and other religions – since the conception to the end of juvenescence”²⁶. Subsequently, article nr. 1 of *the Convention on the Rights of the Child* states that the child is every human being under the age of 18 unless he/ she obtains the legal age earlier.²⁷

A significant issue is also a notation from *the Constitution of the Republic of Poland*²⁸, e.g. in the art. 70. It indicates that the upper limit of childhood is the age of 18– however, everybody has the right to education; the underage person is obliged to receive it, i.e. under the age of 18, which is stated in art. 10 §1 of *the Civil Code*.²⁹

In the context of sexual exploitation, the child is usually defined by legal criteria, and thus speaking of sexual abuse of a child is defined as actions engaged towards a person who is in the age of absolute protection, a person who does not have the ability to express a consent, from a legal point of view, to have sex or surrogate.³⁰ K. Pospiszyl points out the fluidity of the age limit that indicates

²⁵ M. Mozgawa, M. Budyn-Kulik, *Prawnokarne aspekty pedofilii. Analiza dogmatyczna i wyniki badań empirycznych*, “Czasopismo Prawa Karnego i Nauk Penalnych” 2 (2006), pp. 43–78.

²⁶ B. Olszewski, *Uniwersalna definicja dziecka?*, “Przegląd Prawa i Administracji” 85 (2011), p. 206.

²⁷ <https://brpd.gov.pl/konwencja-o-prawachdziecka> (22.07.2020).

²⁸ <http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970780483/U/D19970483Lj.pdf> (22.07.2020).

²⁹ <http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19640160093/U/D19640093Lj.pdf> (22.07.2020).

³⁰ M. Sajkowska, *Wykorzystywanie seksualne dzieci. Ustalenia terminologiczne, skala zjawiska, oblicza problemu społecznego*, “Dziecko Krzywdzone. Teoria. Badania. Praktyka” 1 (2002), pp. 1–24.

the age of absolute protection of a child from sexual contacts with adults. In old England, the common law penalized sexual contacts with a child under the age of 10. In modern times limits of sexual protection are between the ages of 14 and 18. In Poland, this limit is 15 years³¹, as indicated in art. 200 §1 of *the Penal Code*³² – for a person who has sex with a juvenile under the age of 15 or a person who has other sexual activity with a juvenile, as well as a person who leads a juvenile to other sexual activities, the law indicates an imprisonment for a period of 2 to 12 years. A. Jaczewski noticed that a phenomenal analysis of sexual behaviours towards juveniles implies a necessity of division of this group into three categories, i.e. the first group – small children up to the age of 3; the second group – average, children at the age of 3 to 8; the third group – youth at the age of 9 to 18.³³ According to the author “the contact with a small child is something completely different (...) than a sexual contact with a teenager in a period of adolescence.”³⁴ Moreover, he postulates that the term “paedophile” should refer only to those who had a sexual contact with children from the first and the second group (0 to 8 years old). Adults who have sex with juveniles from the third group (9 to 18 years old) should be called as “ephebo-philés” (those who have sexual activities with people who entered puberty).³⁵ In the present article, *the Civil Code* is a significant model for defining a child as a person in the age of absolute protection from the sexual exploitation, i.e. a person who is under 15 years of age.

The problem of sexual exploitation of children for commercial purposes has been indicated during the First World Congress against Sexual Exploitation of Children for Commercial Purposes, which took place in 1996 in Stockholm. The congress was oriented to get the attention of an international society towards the escalation of the phenomenon of commercial sexual exploitation of children, and the necessity of taking action to prevent and eliminate this

³¹ K. Pospiszyl, *Przestępstwa seksualne. Geneza, postacie, resocjalizacja oraz zabezpieczenie przed powrotnością*, Warszawa 2006: PWN.

³² <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19970880553/U/D19970553Lj.pdf> (22.07.2020).

³³ A. Jaczewski, *Seksualność dzieci i młodzieży. Pół wieku badań i refleksji*, Warszawa 2014: Difin.

³⁴ A. Jaczewski, *Seksualność dzieci i młodzieży. Pół wieku badań i refleksji*, Warszawa 2014: Difin, p. 117.

³⁵ A. Jaczewski, *Seksualność dzieci i młodzieży. Pół wieku badań i refleksji*, Warszawa 2014: Difin.

problem.³⁶ The aftermath of this meeting was the adoption of *the Declaration and Action Plan* on 28 August 1996. The Declaration defines sexual exploitation of children as “child abuse committed by an adult for remuneration in cash or in kind, paid for a child or other person or persons. It implies a form of slavery or violence towards children. The child is treated as a sexual and commercial object.”³⁷ The areas of sexual child abuse include: child prostitution, production of pornographic materials with the participation of children, and child trafficking for sexual purposes.³⁸ The World Health Organization states that sexual exploitation of children means the involvement of a child in “sexual activity that is not (...) clear for a child and a child cannot give a conscious consent to it. Such an activity violates the law and customs of a given society. Sexual abuse occurs when it occurs between a child and an adult, or a child and another child, in a situation of dependence, if these persons remain in a relationship of care, dependence and power due to their age or level of development. The aim of this activity is to fulfil the needs of the other person.”³⁹

Child prostitution occurs when a child, or his services, are offered to another person in exchange for financial benefits or other forms of reward.⁴⁰ Child prostitution could be divided into three categories, i.e. escaping children (those who ran away from home and are not sought or those who notoriously run away after they get back home), straying children (usually living at home but staying outdoors for a long time e.g. several nights in a row) and rejected children whose guardians do not care about them or chuck them out of their home.⁴¹ A. Jaworska indicates that in Poland, the lowest age limit of children involved

³⁶ E. Czyż, M. Keller-Hamela, J. Szymańczak, *Od Sztokholmu do Jokohamy – społeczność międzynarodowa wobec zjawiska seksualnego wykorzystywania dzieci w celach komercyjnych*, “Dziecko Krzywdzone. Teoria. Badania. Praktyka” 1 (2003), pp. 1–11.

³⁷ E. Czyż, M. Keller-Hamela, J. Szymańczak, *Od Sztokholmu do Jokohamy – społeczność międzynarodowa wobec zjawiska seksualnego wykorzystywania dzieci w celach komercyjnych*, “Dziecko Krzywdzone. Teoria. Badania. Praktyka” 1 (2003), p. 2.

³⁸ E. Czyż, M. Keller-Hamela, J. Szymańczak, *Od Sztokholmu do Jokohamy – społeczność międzynarodowa wobec zjawiska seksualnego wykorzystywania dzieci w celach komercyjnych*, “Dziecko Krzywdzone. Teoria. Badania. Praktyka” 1 (2003), pp. 1–11.

³⁹ L. Koba, *Prostytucja i pornografia dziecięca*, in: A. Florczak, A. Lisowska (ed.), *Organizacje międzynarodowe w działaniu*, Wrocław 2014: OTO Agencja Reklamowa, p. 309.

⁴⁰ A. Morawska, *Wykorzystywanie seksualne dzieci dla celów komercyjnych – zarys problemu w perspektywie międzynarodowej*, in: M. Sajkowska (ed.), *Wykorzystywanie seksualne dzieci. Teoria, badania, praktyka*, Warszawa 2004: Fundacja “Dzieci Niczyje”, pp. 203–220.

⁴¹ A. Giddens, *Socjologia*, Warszawa 2007: PWN.

in prostitution is around 10 years old, whereas prostitution among 12 to 13 year-old children of both sexes is becoming a more and more common phenomenon. Moreover, it indicates that juvenile prostitution usually appears as: a station prostitution (sexual services offered at train stations, the beneficiaries are usually men), a road prostitution (offering services for drivers), an online prostitution (gaining customers via the Internet or encouraging internet users to prostitution).⁴² Looking for an answer to the question about the reasons for the involvement of persons who are under absolute legal protection against sexual contact, the following factors should be pointed out: difficulties in social assimilation (that have origins in inappropriate social ties in the family), pathological phenomena in the family environment (alcoholism, drug addiction, violence, prostitution of parents), economic reasons (prostitution as help to improve material status), cultural aspects (consumerism, patterns from the mass media), peer group pressure, school failures (lowering self-esteem, ruining the motivation to educate, increasing risk of dropping out of school early, and thus increasing the risk of social exclusion), early sexual initiation.⁴³ It is worth mentioning that along with child prostitution, a sex tourism also appears. The World Tourism Organization defines sex tourism as traveling with the use of the structures of the tourism industry, which journeys are dedicated to bringing about commercial sexual contacts between tourists and residents of a given territory.⁴⁴ In some countries as Thailand or Philippines, child prostitution is a component of erotic tourism.⁴⁵ Due to the fact that issues discussed in the submitted article concern an extremely delicate, intimate sphere, and it is particularly considered in relation to a child, accurate data of the sexual abuse of children in the world is difficult to determine. Moreover, it is even more difficult to determine examples of the abuse in sex tourism. In Africa, main factors that cause the commercial abuse of children are misery, hunger, military conflicts and omnipresence of military troops. Abuses are also caused by a low social standard for women and girls. In Ethiopia and Angola, an escalation of prostitution practiced by children (even 11 years old)

⁴² A. Jaworska, *Leksykon resocjalizacji*, Kraków 2012: Impuls.

⁴³ A. Jaworska, *Leksykon resocjalizacji*, Kraków 2012: Impuls.

⁴⁴ G. Kühn, *Komercyjne wykorzystywanie dzieci*, "Dziecko Krzywdzone. Teoria. Badania. Praktyka" 16 (2017), pp. 252–269.

⁴⁵ A. Giddens, *Socjologia*, Warszawa 2007: PWN.

is observed. In Zambia, there are around 70 thousand children forced to live and work on the street.⁴⁶

As research conducted by UNICEF proves, every year, there are 10 to 15 thousand of girls who are sexually abused off the coast of the cities Malindi, Mombasa, Kilifi and Diani. Other research indicates that even 30 thousand of 12 to 14 year-old children are sexually abused in private mansions and hotels.⁴⁷ In Asia, children engage in prostitution on a large scale, mainly in brothels. A hundred thousand (100,000) prostitutes work in the main cities of India; 25–30% of them are children. It is estimated that 20 thousand boys and 10 thousand girls are abused in brothels in Sri Lanka. The Asian commercial sex market services are particularly attractive for the amateurs of sex tourism of children because children are considered equal with other subjects of trade. Sexual exploitation of children for commercial purposes is well known for countries in Europe. Due to the limited framework of this article, only a few of them are mentioned. Research conducted in Italy proves that every tenth girl involved in prostitution was 10–15 years old, while in the general population of prostitutes, 39% of them were 16–19 year-old persons. On the other hand, even 10 to 11 year-old girls are involved in prostitution in Estonia. In Russia, which is considered the country of origin and transit of children for commercial purposes of sex services, organized criminal groups deal with the recruitment procedure (victims are mainly 13–17 year-old girls, sometimes even younger).⁴⁸ Russia is also a country where a lot of pornographic materials with the participation of children are produced. It is estimated that in Moscow around 20–30 thousand children are used in prostitution per annum. Annually, about 20,000 German tourists go abroad to sexually abuse juveniles, mainly in Africa, South America, Asia and Eastern Europe. As regards data on Poland, there is a lack of sufficient studies devoted to the problem of sexual exploitation of juveniles in tourism.⁴⁹

⁴⁶ J. Kurzępa, *Młodzież pogranicza – “świnki”, czyli o prostytucji nieletnich*, Kraków 2000: Impuls.

⁴⁷ <https://www.edukacja.fdds.pl/afb73a1d-4011-422d-aadf-e907ffb9aa1b/Extras/broszura-ECPAT-FDDS-12042017.pdf> (22.07.2020).

⁴⁸ J. Kurzępa, *Młodzież pogranicza – “świnki”, czyli o prostytucji nieletnich*, Kraków 2000: Impuls.

⁴⁹ <https://www.edukacja.fdds.pl/afb73a1d-4011-422d-aadf-e907ffb9aa1b/Extras/broszura-ECPAT-FDDS-12042017.pdf> (22.07.2020).

Whilst speaking of sexual exploitation of children for commercial purposes, the problem of the production of pornographic materials with the participation of children and the close connection to juvenile prostitution, should also be referred to. The most basic definition of pornography states that its role is to induce sexual desire and support masturbation.⁵⁰

Ł. Wojtasik believes that the production and sales of child pornography nowadays is a huge criminal practice on a global scale and its victims are thousands of children per annum.⁵¹ What is the phenomenon of child pornography? In the *Optional Protocol to the Convention on the Rights of the Child on trafficking in children, child prostitution and child pornography* one could read that the term “child pornography” refers to any demonstration “by any means of a participating child in actual or evidently simulated sexual activities or any display of sexual organs for primarily sexual purposes.”⁵² Child pornography could be divided into two categories, i.e. commercial and domestic. Child commercial pornography is produced mainly for the financial benefits gained from its sale. Domestic pornography – the reason(or motive) for its production is not associated with any form of gratification – definitely does not differ qualitatively from the content produced with the intention of selling. Domestically produced content usually has a wider audience without receiving financial compensation for it. One could say that a form of payment for “a giver” is the satisfaction that his materials go to consumers all over the world. Another classification of child pornography is the division of pornography in the technical sense and of simulated pornography. The first case refers to the erotic content with the participation of people under the age of 18 years. The second case indicates pornographic content with the participation of adults whose appearance and behaviour are directed so that they look like a child. “The sexual circle of children” is also worth mentioning; it differentiates into: a single circle, an intermediate circle and a syndicate. The single circle consists of one adult that is engaged in sexual activity usually with one child and sometimes with a small number of children. This content is not passed on, the adult does not share “his/her” children with third parties.

⁵⁰ L.M. Nijkowski, *Pornografia. Historia, znaczenie, gatunki*, Warszawa 2010: Iskry.

⁵¹ Ł. Wojtasik, *Pedofilia i pornografia dziecięca w Internecie*, in: M. Sajkowska (ed.), *Wykorzystywanie seksualne dzieci. Teoria, badania, praktyka*, Warszawa 2004: Fundacja “Dzieci Niczyje”, pp. 172–202.

⁵² L. Koba, *Prostytucja i pornografia dziecięca*, in: A. Florczak, A. Lisowska (ed.), *Organizacje międzynarodowe w działaniu*, Wrocław 2014: OTO Agencja Reklamowa, p. 310.

In intermediate circles, in turn, there are one to several adults, involving several children.⁵³ Meanwhile, the syndicate “usually includes several adults who make up a well-structured organization that deals with the recruitment of children, pornography production, providing various sexual services and creating a wide customer network.”⁵⁴

Human trafficking, which is considered a modern form of slavery, is also connected to the sexual exploitation of children for commercial purposes.⁵⁵ The phenomenon in discussion consists of recruitment, transport, handing over or receiving people by using threats, force or other forms of coercion, kidnapping, fraud, misleading, abuse of power or weaknesses, giving or receiving a payment or other forms of gratification that is aimed at obtaining the consent of the person exercising control over the subordinate person, in order to use her. The forms of human trafficking include: trade for exploitation in erotic industry, trade for any kind of slavery, trade for the purpose of marriage, trade aimed at forcing begging and human trafficking for organ removal. Child trafficking is a serious violation against the natural right of every child to a healthy childhood, a satisfying existence and a sense of dignity. The victims of child trafficking are subordinated to a perpetrator of the crime and they suffer violence from traffickers, employers, pimps, poisoners and “clients.” Children are often beaten and abused, and violence often accompanies them permanently since the kidnapping.⁵⁶ Children victims are usually from Russia, Ukraine, Romania, Belarus, Bulgaria, Moldova, Albania, Slovakia, Lithuania, Latvia and Estonia. The destination countries are: Greece, Italy, Spain, France, Switzerland, Austria, Germany, Belgium, the Netherlands, Denmark, Great Britain, Ireland, Norway, Sweden and Finland. However, the flow of children occurs thorough: Poland, the Czech Republic, Hungary, Slovenia, Serbia, Croatia, Bosnia and Herzegovina,

⁵³ A. Krawulska-Ptaszyńska, A. Smelkowska-Zdziabek, *Pornografia dziecięca – charakterystyka zjawiska*, “Ruch Prawniczy, Ekonomiczny i Socjologiczny” 3 (1997), pp. 165–175.

⁵⁴ A. Krawulska-Ptaszyńska, A. Smelkowska-Zdziabek, *Pornografia dziecięca – charakterystyka zjawiska*, “Ruch Prawniczy, Ekonomiczny i Socjologiczny” 3 (1997), p. 170.

⁵⁵ R. Antonów, *Handel ludźmi. Kierunki, metody i rodzaje zniewolenia ofiar*, “Annales Universitatis Mariae Curie-Skłodowska. Sectio G” 61 (2014), pp. 7–16.

⁵⁶ T. Kwiatkowski, *Niewolnictwo XXI wieku*, <http://m.wspia.eu/file/21419/23-KWIATKOWSKI.pdf> (22.07.2020).

and Montenegro.⁵⁷ According to UNICEF, 1.2 million children are sold for various purposes each year, and more than half of all victims of trafficking are children.⁵⁸

3. Exemplifications of legal instruments in the field of counteracting sexual exploitation of children and penalization of this act

Due to the scale and international character of the phenomenon of sexual exploitation of children for commercial purposes, it is necessary to take actions focused on monitoring the phenomenon and introduce systematic research, interdepartmental and international exchange of information, more effective prosecution of offences (incl. by introducing new solutions and legal procedures), and create preventive and rehabilitative programs of victims and perpetrators of sexual exploitation of children for commercial purposes, on the national market.⁵⁹

Among the documents counteracting sexual exploitation of children (including for commercial purposes) *Convention on the Rights of the Child* (hereinafter referred to as CRC) should be mentioned. According to the interpretation of the art. 19 §1 of the CRC, Countries-Parties are obliged to take all appropriate steps in the legislative, administrative, social and educational fields for the protection of the child against any forms of violence and exploitation, including sexual exploitation. Art. 1 of the Optional Protocol to the CRC on child trafficking, child prostitution and child pornography, states that child trafficking, child prostitution and pornography are prohibited.⁶⁰ The Council of Europe Convention for the protection of children against sexual exploitation and inappropriate treating for sexual purposes also plays an important role in combating exploitation of children on the commercial market of sexual services. The aim of this

⁵⁷ E. Ligeża, *Handel ludźmi – charakterystyka i skala zjawiska*, “Forum Pedagogiczne” 1 (2015), pp. 235–250.

⁵⁸ R. Antonów, *Handel ludźmi. Kierunki, metody i rodzaje zniewolenia ofiar*, “Annales Universitatis Mariae Curie-Skłodowska. Sectio G” 61 (2014), pp. 7–16.

⁵⁹ E. Czyż, M. Keller-Hamela, J. Szymańczak, *Od Sztokholmu do Jokohamy – społeczność międzynarodowa wobec zjawiska seksualnego wykorzystywania dzieci w celach komercyjnych*, “Dziecko Krzywdzone. Teoria. Badania. Praktyka” 1 (2003), pp. 1–11.

⁶⁰ <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20070760494/O/D20070494.pdf> (22.07.2020).

document, in addition to prevention and eradication of sexual exploitation of children and their inappropriate involvement for sexual purposes, is also the protection of the rights of those children who experienced sexual violence, and the promotion of national and international cooperation for the prevention of sexual exploitation and inappropriate treatment/involvement of the youngest for sexual purposes.⁶¹ The use of sexual violence against children is a gross violation of the law in art. 3 and 5 of *the Universal Declaration of Human Rights*, i.e. the right to personal safety and the treatment in a way that does not degrade other human beings.⁶² *The United Nations Convention against Transnational Organized Crime* mentions the necessity of international cooperation in terms of prevention and eradication of cross-border organized crime that deals with the recruitment of children for erotic entertainment industry.⁶³

In the Polish legal protection system, the most important document that safeguards the fundamental human rights and freedom is *the Constitution of the Republic of Poland*. In terms of the prevention of the sexual exploitation of children, including the market of commercial sex services, art. 31 could be used because it states that human freedom is protected by law (§1), and no one shall be forced to do what the law does not oblige them to do (§2). The presence of a child on the commercial market of sex services also violates the provision of art. 40 that prohibits i.e. an application of corporal punishment, tortures, degrading treatment. As has already been pointed out in the previous part of this study, children in the erotic industry experience many forms of violation. Subsequently, as interpreted in the art. 72§1, the Republic of Poland guarantees the protection of children laws, and every citizen has the right to demand to protect the youngest against the violence, cruelty, exploitation and demoralization. Numerous laws in terms of the protection of children against sexual exploitation can also be found in *the Penal Code*, especially in chapter XV regarding crimes against sexual freedom. As interpreted in the art. 197§3, a rape on a person under the age of 15 is punishable by imprisonment of not less than 3 years. In the case of commitment of the crime with particular cruelty, the perpetrator is facing a minimum of 5 years

⁶¹ <https://www.prawo.pl/akty/dz-u-2015-608,18191657.html> (22.07.2020).

⁶² http://www.unesco.pl/fileadmin/user_upload/pdf/Powszechna_Deklaracja_Praw_Czlowieka.pdf (22.07.2020).

⁶³ Z. Galicki, *Międzynarodowa przestępczość zorganizowana – prawnomiędzynarodowe instrumenty zwalczania i zapobiegania*, „Przegląd Bezpieczeństwa Wewnętrznego” 7 (2015), pp. 115–137.

imprisonment. Bringing the juvenile to sexual intercourse, or submitting to another sexual activity by abusing a relationship or using a critical position, carries a penalty of imprisonment from 3 months to 5 years (art. 199§2). In addition, possession of pornographic content involving a minor, its recording, presentation and distribution (art. 202), as well as urging a person under 15 years of age to engage in prostitution is penalized (art. 204§3).

4. Conclusions

The purpose of the presented article is to analyse the problem of the presence of children on the market of commercial services. The thesis was put forward that sexual exploitation of children for commercial purposes is a peculiar answer to deviant needs of adults.

As A. Popławska rightly pointed out, children involved in sex-business, regardless of the causes, should be perceived only as victims of sexual violence.⁶⁴ Therefore, the word “presence” was included in the title of the study. In the opinion of the author, words such as “the activity of children on the commercial sex services market as an answer to deviant needs of adults” would introduce semantic chaos since the component “activity” could suggest transferring some of the responsibility for the situation, to the children themselves. Moreover, it could then be presumed that the child made a deliberate, voluntary decision. On the other hand, the term “deviant needs of adults” indicates a pejorative phenomenon. Co-operation or the involvement of a child in (another?) a sexual activity by an adult, including for commercial purposes, is a clear example of a negative deviation that results in social repulsion.

Secondly, adults fulfilling their sexual needs by using children (whether the child is used as a physical “partner” or as an object – a picture, video – for discharge of sexual tension) is a serious violation of norms of social coexistence; it expands the risk of escalation of every form of negative deviation. The presence of children on the market of commercial sex services violates all standards identified in sexologist literature – clinical, partner, individual and social norms. The beneficiaries of children services involved in prostitution or present in the

⁶⁴ A. Popławska, *Wykorzystywanie małoletnich w prostytucji – charakterystyka i dynamika zjawiska ze szczególnym uwzględnieniem perspektywy polskiej*, “Dziecko Krzywdzone. Teoria. Badania. Praktyka” 4 (2010), pp. 53–65.

pornographic materials, are often adults of the same sex as the child. For children functioning on the market of commercial sexual services, it is impossible to indicate any voluntary decision on their part (it is worth mentioning that even if a child agrees on sex or any other sexual activity, from a legal point of view such a decision is invalid), or a child's satisfaction from the copulation or its surrogate. Such an early sexual initiation brings many implications not only in the physical sphere, but also in the psychic sphere (especially since the presence of children on the market of commercial sex services is always accompanied by violence), which in turn adds to the quality of functioning in adulthood (if a child involved in sex business survives to this stage), and, moreover, increases the risk of social exclusion.

Cited data on the scale of exploitation of the juveniles in the erotic industry must be treated with a high degree of caution, inclining towards perceiving them as the lowest limit. Not all cases of child exploitation for the erotic industry became disclosed. One could also speculate that, unfortunately, not all of them will be disclosed.

It is a false statement that beneficiaries of children sex services are people from the lowest social stratum, living on a particular territory – it is a more global problem, more or less present in all social circles. People who are willing to pay for sex or its surrogate with a child, should be called/considered as poorly socialized individuals, and nothing justifies their behaviour. The question arising here is whether the current legislative solutions in the field of counteracting the exploitation of children on the market of commercial sex services, actually fulfil their role. The system of protection of children conducted by countries and international organizations does not seem to be effective enough, as demonstrated by the ease of transferring of victims. As L. Koba emphasizes, bribes and clerical corruption in many countries allow for violating or circumventing the law (e.g. by false marriages or adoption). One should also consider the introduction of a uniform age limit for all countries defining the period of absolute protection of the child against sexual contact with adults since its fluidity is conducive to many abuses.

The submitted elaboration is only brief recognition of this multithreaded and significant issue. As A. Łopatka noticed, “Those who are children today – will be adults tomorrow. They will outline our future. The features that we install in them today and the living conditions we create for them will determine what the world will be like in the next century.” Hence there is an urgent need to sensitize people, not only to the scale of sexual exploitation of children for

commercial purposes, but also to the necessity of searching for new and better ways to prevent it. These divagations can (and should) contribute to a broader social discussion – each of the issues signaled in the study deserves an in-depth analysis in the form of a separate publication.

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