

External contribution

Latin American sex workers, victims of human trafficking in the Netherlands

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1. Introduction

In its 2024 annual report, Myria pays particular attention to the issue of trafficking and smuggling of human beings originating from Latin America²⁰⁶. This problem has been the subject of a report by EMPACT-Europol for several years, but to date the nature of these practices remains largely unknown. This also applies to the Netherlands where, until recently, it was considered to be more a case of smuggling than trafficking in human beings. In recent years we have also seen increasing evidence of trafficking for the purpose of sexual exploitation and a degree of organisation in the Netherlands. This contribution provides an overview of the situation and the Dutch approach to human trafficking involving Latin American SWs. First, trends and developments in the Netherlands are reviewed. Next, a certain number of interventions aimed at gaining a better picture of this problem are examined, bearing in mind that multidisciplinary collaboration lies at the heart of these various interventions.

2. Trends and developments

2.1. Characteristics of the victims

The large majority of SWs active in the Netherlands are of Latin American origin. Studies carried out by the Dutch Research and Data Centre (WODC) show that more than 30% of non-Dutch SWs who placed an advert were of South American origin²⁰⁷. On average, 23% of all SWs who placed an advert were from South America²⁰⁸. Police experts in human trafficking²⁰⁹ estimate that 40% to 50% of the SWs they encounter are of Latin American origin. The Dutch Centre of Expertise on Human Trafficking and Migrant Smuggling (EMM)²¹⁰ indicates in its 2024 overview of the phenomenon that 96% of the 162 investigations into sexual exploitation included and completed between 1 January 2019 and 1 July 2023 involved at least one victim from the Netherlands, Eastern Europe or Latin America (n=155)²¹¹. In the 155 investigations analysed, Latin American victims (18%) were among the largest groups of victims of sexual exploitation, alongside Dutch (49%) and Eastern European (29%) victims.

In principle, nationals of non-EU countries require a residence and work permit to live and work in the Netherlands.

206 The term 'Latin America' refers to the countries of Central and South America, as well as the Caribbean countries. However, only one publication uses the term 'South America'. This terminology was used when the geographical indication was limited to the countries located in South America.

207 Y. Bleeker and G. van den Braak, *De Nederlandse seksbranche. Een onderzoek naar omvang en aard, beleid, toezicht en handhaving*. Regioplan, Amsterdam, December 2021, p. 12.

208 *Ibidem*, p. 69.

209 This information was obtained from the National Consultation of Human Trafficking Specialists (Landelijk Overleg Specialisten Mensenhandel - LOSM) on 18 June 2024. LOSM is a monthly consultation attended by all police units specialising in human trafficking, and the agenda includes topics related to the joint strategy on human trafficking, national developments and an in-depth examination of emerging issues (LOSM note, March 2021).

210 For the mission statement and partnership, see the website of [Expertisecentrum Mensenhandel en Mensensmokkel](#).

211 Fenomeenbeeld mensenhandel 2024, EMM, september 2024.

Nearly all the Latin American SWs present in the Netherlands have no (or no longer a) valid residence permit and therefore do not reside legally in the Netherlands. When they are legally resident, it is usually on the basis of a tourist visa or a residence permit for another European country (usually Spain, see point 2.3.)²¹². A tourist visa does not give the right to work.

The majority of victims from Latin America (n=58), who appeared in the 18 investigations analysed by EMM, came from Colombia (23) and Venezuela (20). There were also victims from Brazil (8), Peru (3) and Cuba (2)²¹³. Following civil wars and socio-economic and political crises, large numbers of people have fled Venezuela²¹⁴. In addition, a large proportion of the population who remain in Venezuela live in extreme poverty. These factors make them vulnerable to exploitation and recruitment by human traffickers. As a result of the years of civil war in Colombia, similar vulnerabilities also exist in that country, including for the more than 9 million Colombians who have had to seek refuge elsewhere in Colombia²¹⁵.

Of the Latin American victims identified in EMM's overview of the phenomenon, 13% are registered as trans people. They were often already working in the prostitution industry in their country of origin, but were the subject of numerous acts of violence and disadvantages. Latin American SWs who fall into the trap of trafficking tend to be older: they are on average 30 years old²¹⁶, whereas almost 70% of SWs who have posted an advert are under 30 years old²¹⁷ according to the WODC study.

Latin American SWs are often employed in prostitution before emigrating to Europe. They expect working conditions to be better in Europe and to earn more money than in their country of origin. For the victims identified in the investigations, these expectations do not materialise. All the victims declared that they had to hand over at least 50% of their earnings. Many of them had to hand over (at one point or another during the period of exploitation) all their earnings²¹⁸.

There are many exploited Latin American SWs who do not consider themselves as victims. They are also very reluctant to make incriminating statements about those who brought them to the Netherlands and arranged work for them in prostitution. They were often approached through sex adverts or WhatsApp groups, or when looking for accommodation or work. Statements often refer to favours for friends, while there is clearly evidence of abuse and exploitation²¹⁹.

2.2. Modus operandi

Traffickers in human beings often use what is known as a 'carousel'. This involves the continuous movement of criminal activities, in this case the exploitation of SWs. Latin American SWs are moved every few days or weeks to another location in the Netherlands or Europe, a method also used by traffickers with victims of sexual exploitation from Eastern Europe²²⁰. What we often see is a criminal network with a non-hierarchical structure, made up of different cells that collaborate in a flexible manner²²¹. However, these networks are barely visible, if at all.

As we saw above, most Latin American SWs reside illegally in the Netherlands. The carousel system is often used in these cases, as exploiters want to keep SWs under the radar of the authorities. This is why Latin American SWs are often monitored to minimise their appearance outside the workplace²²². They are often housed with other people, sometimes in the trafficker's home. They often live and work in the same place, a location chosen by the human traffickers.

212 Fenomeenbeeld mensenhandel 2024, EMM, September 2024.

213 Fenomeenbeeld mensenhandel 2024, EMM, September 2024.

214 There are 7.7 million Venezuelan refugees and migrants worldwide. Some 6.5 million of them are in Latin America and the Caribbean. See <https://reporting.unhcr.org/operational/situations/venezuela-situation>.

215 See <https://www.unhcr.org/countries/colombia>.

216 Fenomeenbeeld mensenhandel 2024, EMM, September 2024.

217 Y. Bleeker and G. van den Braak, *op. cit.*, p. 13.

218 Fenomeenbeeld mensenhandel 2024, EMM, September 2024.

219 Informative discussion with the municipality of Amsterdam, 13 June 2024; Fenomeenbeeld mensenhandel 2024, EMM, September 2024.

220 The Dutch National Rapporteur on Human Trafficking and Sexual Violence against Children (2022), Dadermonitor 2017-2021, pp. 63-64.

221 The Dutch National Rapporteur on Human Trafficking and Sexual Violence against Children (2022), Dadermonitor 2017-2021, pp. 63-64, info LOSM. See also the 221 judgment of the Midden-Nederland court of 5 September 2023 (ECLI: NL: RBMNE: 2023:4564). NB: Dutch case law uses the European standard for the unique numbering of court decisions: the European Case Law Identifier (ECLI). For more information and an overview of Dutch court codes, see www.rechtspraak.nl/Uitspraken/Paginas/ECLI.aspx.

222 Fenomeenbeeld mensenhandel 2024, EMM, September 2024.

Websites and WhatsApp groups are used to exchange information about available accommodation. Sometimes they work and live in a place rented via Booking.com, sometimes in holiday villages²²³.

Human traffickers recruit Latin American SWs to earn money in prostitution in the Netherlands by abusing their vulnerable position. As well as being illegal residents, they do not speak the language and are looking for a better life for themselves or their loved ones. A small proportion of SWs are also misled into believing that they can work in the Netherlands, for instance as cleaners or beauticians. Traffickers in human beings force SWs to make false declarations during checks. They have to declare, for instance, that they are self-employed, that they live with friends and that they can keep their earnings. SWs are also subject to constraint: their money and passports are taken away and they are monitored²²⁴.

Exploiters of Latin American SWs are mainly men. EMM notes in its overview of the phenomenon that when the exploiter is a woman, she is the partner or a family member of a male suspect. Travel, workplaces and creating adverts are almost always organised by the trafficker. Hence, the autonomy of Latin American SWs is severely restricted. For instance, it has emerged that SWs have no control over their working hours, in particular, or the number of clients they have each day or the sexual acts they are required to perform.

There are also signs of exploitation at other times. For instance, the police mention having been in contact with a Dutch-speaking man or woman when making an appointment as a client, even though the SW does not speak Dutch. In addition, after a visit to an SW, a request for payment is often sent digitally by a third party, and not by the SW. The money is therefore not sent to the SW²²⁵.

2.3. Link with Spain and Belgium

Many Latin American SWs have a link with Spain. Using a tourist visa, they go to Spain and often already start working as a prostitute. Spain is therefore a gateway to Europe for them, but also a place where human trafficking can begin. As GRETA's third report on Spain shows, the number of victims from Latin America, particularly Colombia, Venezuela and Paraguay²²⁶, has been rising in Spain since 2019. Many Latin American SWs who come to work in the Netherlands are recruited in Spain through intermediaries or from the Netherlands²²⁷. It is also common for Latin American SWs to be recruited directly from Latin America²²⁸.

In addition to a link with Spain, a connection with Belgium has also been observed more recently. This connection manifests itself in two ways. Latin American SWs also pass through Belgium, and more specifically through Zaventem airport, on their way to the European Union. They generally use a tourist visa to do so. As part of the carousel, victims are also put to work in Belgium, which borders the Netherlands²²⁹. This means that an SW can be working in the Netherlands one day, and working in a Belgian town the next day.

3. Interventions

3.1. Criminal proceedings

Over the past four years, the number of cases in which suspects have been prosecuted for trafficking and/or smuggling SWs from Latin America has increased. In 2020, some 20 such cases were published on Rechtspraak.nl. These were cases that were tried at first instance.

These cases show that it is difficult to confirm suspicions of exploitation of Latin American SWs and thus gather sufficient evidence to initiate proceedings or make a conviction for human trafficking.

223 See, in particular, ECLI: NL: RBROT:2022:11669 of 29 December 2022, ECLI: NL: RBMNE: 2023: 4564 of 5 September 2023, ECLI: NL: RBAMS:2024:22 of 3 January 2024, ECLI: NL: RBOVE: 2024:2780 of 28 May 2024, ECLI: NL: RBNNE: 2024:1854 of 8 May 2024.

224 Info LOSM. See, in particular, ECLI: NL: RBOVE: 2022:1440 of 19 May 2022, ECLI: NL: RBMNE: 2023:4560 and 4564 of 5 September 2023.

225 See, in particular, ECLI: NL: RBAMS:2024:22 of 3 January 2024, ECLI: NL: RBOVE: 2022:1440 of 19 May 2022, ECLI: NL: RBROT:2022:11669 of 29 December 2022.

226 GRETA, *Third Evaluation Report Spain*, Council of Europe, 12 June 2023, p. 9, §14.

227 See, in particular, ECLI: NL: RBAMS:2024:22 of 3 January 2024, ECLI: NL: RBOVE:2022:1440 of 19 May 2022.

228 Fenomeenbeeld mensenhandel 2024, EMM, September 2024.

229 Informative discussion with the municipality of Amsterdam, 13 June 2024, info LOSM.

Trafficking in human beings is often not considered proven, for instance because the court assumes that there is no intention to exploit. To establish exploitation, the nature and duration of the work, the constraints imposed on the victim and the economic benefit derived by the exploiter are generally taken into account. The conclusion that there is no exploitation may result from the fact that the victim's statements are not sufficiently supported by other evidence²³⁰, that the judge assumes a certain degree of willingness to engage in prostitution²³¹ or that there are contradictory statements²³². The Amsterdam court seems to have set the bar relatively high as regards exploitation in a case where the suspect had employed seven Latin American women and run an escort business in the illegal prostitution sector²³³. The court ruled that exploitation only existed in cases of excessive abuse of a situation of vulnerability. Despite a vulnerable situation, the court considers that abuse only occurs if this vulnerability is used unfairly or unethically, and that this was not the case here, since there was apparently a 50/50 split and the victim had to pay a modest sum for the hotel rooms. The court also assumed that the victim had a certain degree of free will with regard to their activities and that their freedom was not restricted. In the court's view, the facts and circumstances did not point to any unacceptable control or pressure over work activities, their duration or income, or any hindrance to freedom of movement. The defendant was acquitted of the charge of human trafficking.

In other (similar) cases, exploitation was deemed to have occurred. In one case, exploitation was accepted on the grounds of inequality and a situation "not equivalent to that of a licensed prostitute in the Netherlands". Arguments by the defence that the victims had acted of their own free will and had been able to decide for themselves whether or not to work did not change this. The finding of exploitation was based on the circumstances (in particular, illegality, situation in the country of origin, inability to speak the language) and on the fact that 50% of the income had to be transferred²³⁴.

In another case, exploitation was deemed to have occurred because the victim was not staying legally, a 50/50 split was agreed upon, and violence and drug use were involved²³⁵.

In other cases with similar acts, human trafficking was not accepted²³⁶, or the 'officier van justitie' requested²³⁷ during the hearing that trafficking not be accepted owing to a lack of evidence²³⁸. If a specific case leads to criminal proceedings, a conviction for human smuggling is generally handed down. In addition, the carousels used make it difficult to get a clear picture of the work and the networks, and to obtain evidence of human trafficking.

Delimitation of trafficking and smuggling in human beings

In many of the cases examined, the charge of human smuggling is (also) upheld, and convictions are often handed down for human smuggling, but not for human trafficking. Dutch criminal law provides for two variants of human smuggling: in short, aiding illegal entry into and transit through the Netherlands, and aiding illegal residence in the Netherlands for financial gain²³⁹. The lure of financial gain translates into a 50/50 split of the proceeds from prostitution and/or rental income from a home and/or workspace²⁴⁰.

In principle, trafficking and smuggling of human beings are two different offences. While trafficking in human beings involves the exploitation of a person, smuggling of human beings in principle involves the illegal crossing of a national border. By also classifying facilitating residence for profit as smuggling of human beings, the dividing line between smuggling and trafficking in human beings becomes blurred in the Dutch context.

230 ECLI: NL:RBROT: 2021-3951 of 23 April 2021 and ECLI: NL:RBROT: 2021:3925 of 23 April 2021.

231 ECLI: NL: RBMNE: 2023:4564 of 5 September 2023.

232 ECLI: NL: RBNNE: 2024:1854 of 8 May 2024.

233 ECLI: NL: RBAMS:2024:22 and 23 of 3 January 2024.

234 ECLI: NL: RBMNE: 2023:4560, 4564 and 4626 of 5 September 2023.

235 ECLI: NL: RBOVE: 2022:1440 of 19 May 2022.

236 See, in particular, ECLI:NL: RBOVE: 2024:2780 of 28 May 2024, ECLI: NL:RBGEL:2023:7111 and 7112 of 21 December 2023.

237 In the Netherlands, 'officier van justitie' is the public prosecutor and has a similar role to that of the 'procureur du Roi' in Belgium.

238 See, in particular, ECLI: NL: RBROT:2022:11669 of 29 December 2022.

239 Respectively, Art. 197a, para. 1 and Art. 197a, para. 2 of the Criminal Code.

240 See, in particular, ECLI: NL: RBAMS:2024:22 of 3 January 2024, ECLI: NL: RBOVE: 2024:2780 of 28 May 2024, ECLI: NL: RBOVE: 2022:1440 of 19 May 2022, ECLI: NL: RBROT:2022:11669 of 29 December 2022, ECLI: NL: RBROT:2021:3951 of 24 April 2021.

Deliberately taking advantage of a person's illegal status and their potentially difficult situation in their country of origin, as is the case in Venezuela or Colombia, thus preventing them from returning to their country of origin, are not only characteristics of the lure of financial gain in the context of human smuggling, but also characteristics of exploitation. It is therefore reasonable to consider how the profit motive for aiding illegal residence in the Netherlands differs from exploitation in the context of trafficking in human beings. As the analysis of the relevant case law above shows, the courts do not respond to this issue in an unequivocal manner.

The importance of this issue goes beyond a purely legal interest and is also significant for the protection of victims. Protection obligations have been agreed at international level for victims of trafficking. The option provided for in Article 3(2) of Directive 2004/81 to extend this protection to victims of human smuggling has not been accepted by the Netherlands, unlike Belgium²⁴¹.

Besides criminal proceedings, there are other initiatives in the Netherlands to raise the profile of and strengthen the approach to the exploitation of Latin American SWs, particularly through specific partnerships. These are discussed hereafter.

3.2. Transregional criminal investigation and knowledge of networks

As already mentioned, Latin American SWs generally do not stay in one place for long and are employed in different regions of the Netherlands and sometimes in different countries. This requires cooperation between investigation services beyond regional and sometimes national borders. In the Netherlands, this cooperation is implemented by the Coordination Point for Unitary Interventions against Trafficking in Human Beings (*Coördinatiepunt Eenheids-overstijgende Mensenhandel Interventies* - CEMI), set up in 2022²⁴². A trans-regional investigation into the exploitation of Latin American SWs is underway within the CEMI²⁴³.

The investigation is currently being carried out by several regional police units, which makes it a good example of inter-unit work to obtain an overview of human trafficking.

In parallel with this cross-disciplinary investigation, a major criminal investigation has been underway since last year against five people suspected of human trafficking and involving 13 Latin American victims, mainly from Venezuela and Colombia. The case came to light following a statement from a Belgian victim, after which other evidence was gathered, in particular on the basis of checks, phone taps and a digital investigation²⁴⁴.

The two investigations are seeking to draw up a picture of the structure of the criminal network behind the offence of human trafficking, while also specifying the role of the different players.

3.3. Multidisciplinary collaboration

Multidisciplinary collaboration also provides a better understanding of the problems of Latin American SWs. As part of such collaboration, information on human trafficking involving Latin American SWs, gathered by different disciplines, is brought together to form a more complete picture. In the Netherlands, this collaboration takes shape, among other things, in the regional information and expertise centres and the *Field Labs*, discussed below.

Regional information and expertise centres

To jointly combat subversive crime²⁴⁵, which also covers human trafficking, a national network has been set up in the Netherlands through 10 regional information and expertise centres (*Regionale Informatie- en Expertisecentra* - RIEC). Each RIEC operates within the boundaries of a region, under the guidance of an independent regional steering committee. The RIECs act as an information hub with a view to processing cases for public services. They prepare recommendations for full implementation and coordinate project-based administrative, penal and fiscal interventions with regional partners.

²⁴¹ Directive 2004/81 of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, O.J.L 261, 6 August 2004.

²⁴² For more information on CEMI, see the Dutch National Rapporteur on Human Trafficking and Sexual Violence against Children (2022), Dadermonitor 2017–2021, p. 64.

²⁴³ Information provided by the police on 25 June 2024.

²⁴⁴ Public prosecutor, *Vijf mannen opgepakt in omvangrijk onderzoek naar mensenhandel*.

²⁴⁵ Subversive crime is when criminals use legitimate companies and services to carry out their illegal activities. This blurs standards and reduces the sense of security and quality of life, see www.rijksoverheid.nl/onderwerpen/ondermijning.

There is also a national information and expertise centre (*Landelijk Informatie- en Expertisecentrum - LIEC*) that acts as a liaison between the RIECs, identifying and cataloguing developments in the field of subversion. For trans-regional crime problems, the LIEC coordinates the national approach²⁴⁶.

One way of achieving this is to adopt a global approach to cases. In short, this means that one of the agreement partners submits a 'signal'²⁴⁷ after which an analysis is carried out on the basis of the information provided by the agreement partners concerned. This analysis leads to an opinion on the possible interventions to be implemented. If action is to be taken, an action plan will be drawn up, which should at minimum specify the resources to be deployed and the agreement partner responsible for doing so²⁴⁸.

Field Lab

At the LIEC, we have a specific form of multidisciplinary collaboration, namely Field Labs. Since 2014, *Field Labs* have been organised in the area of security in the Netherlands, in particular the Field Lab on human trafficking. The fourth edition of this Field Lab is in preparation and will start at the beginning of November 2024. The *Field Lab* is a programme that supports multidisciplinary collaboration in solving complex societal problems. A *Field Lab* is made up of at least five teams, each consisting of six to eight people from different organisations. The *Field Labs* aim to develop and implement interventions that have a strong impact on what are known as 'wicked problems' in society. According to Mark Moore's 'public value' theory²⁴⁹, teams work for a week to define a common social problem and then propose an intervention to reduce this problem.

At the end of the week, the teams present their interventions to their managers and other stakeholders, after which they have 100 days to implement the intervention and learn from it. At the end of 100 days, there is a debriefing session where the teams report on what they have done, what they have achieved, what they have learned and what they need to do to take their plan or intervention forward²⁵⁰.

Field Lab Piñata

As part of the 2023 Field Lab, one of the teams, known as Piñata, focused on issues relating to Latin American SWs in the Amsterdam region²⁵¹. The active sharing of information between the municipality, the police, the Financial Intelligence Unit (FIU) and the *Koninklijke Marechaussee* (KMar) on people present in the systems and likely to be identified as facilitators/exploiters of Latin American SWs enabled the identification of potential perpetrators. A list of nine people was submitted to the RIEC, which led to various actions being taken: criminal (investigations into trafficking and smuggling of human beings and surveillance), administrative (in particular penalty payments, fines for change of housing assignment, recovery of benefits) and fiscal (in particular debt recovery, investigation of income). This led to the apprehension of several people who were previously under surveillance, but seemingly elusive. By pooling the information provided by the various organisations, it was possible to gain a better understanding of the illegal employment of Latin American SWs without valid residence permits and the vulnerable situation in which they find themselves. In addition, the scale of the illegal, unlicensed prostitution sector in Amsterdam became clear²⁵².

The Field Lab decided on an approach for the Amsterdam region. However, such a regional approach is not sufficient owing to the mobility of the networks. In order to obtain a clear picture and to get a grip on these issues, a commitment is needed at national level. Given the international ramifications, intensified collaboration at international level is also necessary.

²⁴⁶ See www.riec.nl/riecs-en-liec

²⁴⁷ In the description of the global approach process for managing cases, a signal is defined as follows: '(an) indication(s) from one or more partners in the RIEC partnership that certain behaviours and/or situations could possibly be linked to (manifestations of) organised crime' (Description of the global approach process for managing cases, August 2019 version, free translation, at: www.riec.nl/maatregelen-en-documenten/documenten/publicaties/2019/08/15/procesbeschrijving-integrale-casusaanpak).

²⁴⁸ Description of the global approach process for managing cases, version August 2019, at: www.riec.nl/maatregelen-en-documenten/documenten/publicaties/2019/08/15/procesbeschrijving-integrale-casusaanpak.

²⁴⁹ See, in particular, J. Benington & M. Moore (2010), *Public Value: Theory and Practice*, Bloomsbury Publishing.

²⁵⁰ Information provided by LIEC on 8 July 2024. For more information: fieldlabhub@liec.nl.

²⁵¹ In the first edition of the human trafficking *Field Lab* for the period 2020-2021, the Bermuda team also focused on the group of Latin American SWs, and more specifically on trans people. Some actions aimed at combating human smuggling emerged from this Field Lab, directed in particular against the facilitators (*After Action Report Field Lab Bermuda*, January 2022, not public).

²⁵² *After Action Report Field Lab Piñata*, June 2024, not public.

4. Conclusion

This contribution provides an overview of the problem of trafficking and smuggling of Latin American SWs in the Netherlands. Many of them have fled the situation in their own countries only to find themselves in a situation of exploitation; a deliberate profit is made from the abuse of the distress of these Latin American victims. The effects of the crisis in Venezuela in particular are also clearly perceptible and visible in the Caribbean, in the Netherlands and in other countries of the Kingdom of the Netherlands and, for this reason, require particular attention. In the Netherlands, the situation in which the Latin American SWs find themselves is often classified as human smuggling, i.e. assisting illegal immigrants for profit. This classification needs to be reconsidered, especially as we have a better understanding of the modus operandi of traffickers and smugglers, as well as the structures of the networks that underpin them.

In order to complete this picture, multidisciplinary collaboration is essential, with different disciplines bringing together the pieces of information. To achieve this, the Netherlands has set up excellent structures within the *Field Labs*, the LIEC and the RIEC. Their findings can be used in criminal proceedings, where it is very important to examine the issue from the perspective of human trafficking and to provide victims with the corresponding reception and protection to which the Netherlands has committed itself at international level.

The networks engaging in these practices often operate in several countries. The exchange of knowledge between countries and detection beyond national borders are therefore necessary in order to also tackle the structures behind these practices. The Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children hopes to have made a modest contribution in this respect.