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Study Series

Sexual Exploitation of Children



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Sexual Exploitation of Children

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child prostitution and child pornography*



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NOTE

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PREFACE

Sexual exploitation of children is a global phenomenon which, although varying in intensity, is found in both developing and developed countries. In addition to sexual abuse, sexual exploitation of children involves some kind of remuneration in cash or in kind. Profit might be gained by a variety of exploiters, ranging from close family members to intermediaries and syndicates. Two categories of sexual exploitation of children are of particular concern to this study: child prostitution and child pornography.

In recent decades, the phenomenon of sexual exploitation of children has become increasingly complex due to its transnational scope. Children are sold and trafficked across frontiers. It is a contemporary form of slavery, pervasive and expanding on many fronts. Furthermore, the negative aspects of globalization facilitate its expansion. As an illustration, computer networks are being used to disseminate pornography worldwide.

On the one hand, traditional safety nets are failing in many societies. This is exemplified by family breakdown and breakup, aggravated by continual migration. On the other hand, traditional and sociocultural practices and beliefs render specific groups of children more vulnerable than others. The girl child, for example, is affected by various traditional practices that result in sexual exploitation. The recovery and reintegration of these children is made more difficult by societal ingrained taboos and stigmas which discriminate against, rather than empathize with, the victims.

While poverty is often cited by analysts as a key factor in sexual exploitation of children, it is not poverty alone, but poverty together with other factors, which leads to such exploitation. Poverty does not account for the demand factor, which is equally relevant.

An underlying concern is criminality: children are often sold, abducted, tricked or drugged into sexual exploitation. They are faced with an industry that lures them into exploitation. Sexual trade is spiralling towards the very young. While traditionally some customers believed that by resorting to young victims they would rejuvenate themselves, there is now the equally disturbing trend of believing that the selection of young victims offers protection against HIV/AIDS.

Sexual exploitation of children is unquestionably a breach of human rights. A variety of rights inherent to the child are violated by those indulging in child sexual exploitation. These rights were laid down in the 1989 Convention on the Rights of the Child,^a which has received almost universal ratification. Article 34 of the Convention reads as follows:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

The Convention calls for integrated, cross-sectorial strategies both to prevent and to remedy the situation of sexual exploitation of children. Its implementation is monitored by the Committee on the Rights of the Child, which receives regular reports from States parties on the steps they have taken to put the Convention into effect and provides comments and recommendations.

Among the international mechanisms for monitoring sexual exploitation of children, the Special Rapporteur on the sale of children, child prostitution and child pornography, who reports annually to the Commission on Human Rights, has particular relevance. The undersigned was appointed Special Rapporteur from 1990 to 1994 and parts of this study are drawn from experience and findings during that period.

As a complement to the Convention on the Rights of the Child, the Commission on Human Rights, in 1992, adopted the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography. The Programme of Action provides a series of guidelines to counter the phenomenon. The strategies advocated vary from information and education to legal, law enforcement and social measures, assistance for development, rehabilitation and reintegration, and international coordination.

With regard to child prostitution, the numbers are higher in Asia and Central and South America, although there are reports of increases in Africa, North America, Europe and Australia. Eastern Europe is currently a key concern due to a rapid expansion of the child prostitution market.

Legislation against child prostitution exists in almost every country. It may take the form of a specific law or be part of a more general piece of legislation, i.e. a criminal code. Yet actual enforcement of this legislation is poor and some problems arise in relation to the minimum legal age for consent to sexual acts. Many countries have set the age of consent for sexual intercourse below 18—between 13 and 17. The customer is exempt from responsibility if the child victim consents.

In the fight against child prostitution much depends on improved law enforcement and community participation in countering the criminal element that profits from

^a General Assembly resolution 44/25 of 20 November 1989, annex.

children. An important innovation in this field is the extension of the criminal law of some countries to cover the misdeeds of their nationals against children perpetrated in other countries. At least 12 countries now have "extraterritorial" criminal laws on the subject. In a key test case in 1995, under Sweden's extraterritorial law, a Swedish citizen was sentenced to imprisonment for a crime of child sexual exploitation committed in Thailand.

With the advent of new information technologies, the problem of child pornography has become more intractable. Pornographic materials are mainly produced in the West, but children from developing countries are also used for such purposes.

Many countries do not have specific laws on child pornography, but various laws on "morality" and "public health and order", including criminal or penal codes, may be used to protect children in such situations. While some laws punish both customers/possessors and manufacturers and distributors, others punish only the latter two groups. However, it needs to be said that the global trend is towards the criminalization of mere possession of child pornography. Law enforcement is still deficient and hampered by technological developments which evade effective monitoring.

The final chapter of this study offers various conclusions and recommendations. While good laws and effective law enforcement have a short-term impact on the alleviation of the plight of children in this area, they are not sufficient and should be seen in the light of the need for interdisciplinary strategies with long-term impact.

From an interdisciplinary point of view, it may be observed that, in many countries, there is inadequate sex education, which may lead to misunderstandings and lack of empathy for victims. Education and mobilization are thus essential for preventing the problem. More emphasis should be placed on sustained strategies to tackle the factors that may lead to child sexual exploitation, such as poverty, criminality, family breakdown and sociocultural anomalies. These strategies have to be operationalized by international and national plans and programmes with concomitant budgets and specific time-frames. Both political and social will, as well as effective responses from the governmental and non-governmental communities, including the business sector, are required to make the elimination of sexual exploitation of children worldwide a reality.

VITIT MUNTARBHORN

Bangkok, May 1996

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ABBREVIATIONS

IMF	International Monetary Fund
Interpol	International Criminal Police Organization
OAU	Organization of African Unity
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
World Bank	International Bank for Reconstruction and Development

I. SEXUAL EXPLOITATION AND THE RIGHTS OF THE CHILD: AN OVERVIEW¹

A. Sexual exploitation

1. The sexual exploitation of children has emerged in recent years as a global phenomenon of disquieting proportions. It is found in both developing and developed countries, although the numbers loom larger in the case of the former. Despite attempts to counter the situation, it remains daunting and intractable; in some parts of the world, it is deteriorating. The exploitation has become more insidious because of its transfrontier aspect. Children are increasingly sold and trafficked across frontiers; this is evident between developing and developed countries, between developing countries and between developed countries. All continents of the globe deserve attention.

2. At the outset, it is worth noting some definitional issues which arise in the context of sexual exploitation and the rights of the child. This study aims primarily to tackle the issue of sexual exploitation of children, namely situations in which children are used for the sexual gratification of adults. Two main areas are covered in the study: child prostitution and child pornography.

3. Sexual exploitation of children has recently been defined as

use of children (under 18 years) for the sexual satisfaction of adults. The basis of the exploitation is the unequal power and economic relations between the child and the adult. The child is exploited for his/her youth and sexuality. Frequently, although not always, this exploitation is organized by a third party for profit.²

4. The term "sexual exploitation" is closely linked with the term "sexual abuse", which has been defined as

¹ Parts of this study are drawn from the following reports of Mr. Vitit Muntarbhorn, Special Rapporteur of the Commission on Human Rights on the sale of children, child prostitution and child pornography: first report, E/CN.4/1991/51; second report, E/CN.4/1992/55, and addendum (Brazil), E/CN.4/1992/5/Add.1; third report, E/CN.4/1993/67, and addendum (Australia), E/CN.4/1993/67/Add.1; fourth report, E/CN.4/1994/84 and addendum (Nepal), E/CN.4/1994/84/Add.1; fifth report, A/49/478. See also (a) A. Bouhdiba, *Exploitation of Child Labour* (United Nations publication, Sales No. E.82.XIV.2); (b) report of Mr. J. Fernand-Laurent, Special Rapporteur on the suppression of the traffic in persons and the exploitation of the prostitution of others (E/1983/7 and Corr.1 and 2); (c) A. G. Andersen, *International Report on Child Pornography, Child Prostitution and Child Trade* (Oslo, Norwegian Department of Justice, 1987); (d) H. W. J. Buys, *Report on the Sexual Exploitation of Children and Young Persons* (Strasbourg, Council of Europe, 1989); (e) O. Narvesen, *The Sexual Exploitation of Children in Developing Countries* (Oslo, Redd Barna, 1989).

² K. Ireland, "Wish You Weren't Here": *The Sexual Exploitation of Children and the Connection with Tourism and International Travel*, Working Paper No. 7 (London, Save the Children Fund, 1993), p. 2.

the involvement of dependent, developmentally immature children and adolescents in activities they do not truly comprehend, to which they are unable to give informed consent, or that violate the social taboos of family roles.³

5. On a related front, it is noteworthy that the rights of the child have become very much part and parcel of international law and human rights. The primary international instrument in this regard is the Convention on the Rights of the Child (see annex I), which sets basic minimum standards as benchmarks for measuring the promotion and protection of the rights of the child by States. Article 1 of the Convention defines a "child" as follows:

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

6. While the international criterion covers children under eighteen, one should not underestimate the difficulties faced at the national and local levels with regard to the age of the child. Closely linked with the issue of sexual exploitation is that of the age of consent, whereby a young person is empowered by law to consent to a sexual act. In many countries, the age of consent is lower than eighteen. Protection of children from sexual exploitation thus requires an appreciation of what threshold is to be advocated for the age of consent. There is as yet no international consensus on this issue. However, for the purpose of this study, particularly with regard to child prostitution and child pornography, it is submitted that sixteen is to be preferred as the minimum age of consent, in conformity with the spirit of the Convention on the Rights of the Child.

B. Causes

7. The problem of sexual exploitation of children affects both developing and developed countries, although the extent varies according to the country. Its elusiveness derives in part from the fact that it is often invisible or only marginally visible, shielded by the cloak of a pervasive underworld. Its menace is all the more alarming because it is transnational in its implications and transgenerational in its repercussions.

8. The slavery of yesteryear and the treatment of human beings as chattels to be used and abused are very much part of contemporary reality, although there have been changes of form and substance. The circumstances are all the more tragic because a multitude of children are caught in this web of sexual bondage. The vicious

³ Definition by the Department of Health and Social Security in the United Kingdom, cited by Ireland (*ibid.*).

cycle in which they are trapped is aggravated by the demands of a society that professes to be modern and yet perpetuates the vestiges of the past.

9. The following are some of the multiple causes at play.

1. Poverty-plus factor

10. As stated in the United Nations 1989 Report on the World Social Situation:

Poverty remains a major challenge to the world community. In rich countries, where absolute poverty has been virtually eliminated, new forms of poverty are emerging. In many low-income countries, social conditions have none the less greatly improved. Pockets of social poverty persist in all societies, but the greatest numbers of the absolutely poor in the world are in South Asia and sub-Saharan Africa.

Socio-economic needs, particularly in developing countries, may lead parents to sell their children or to compel them to engage in sexual activities detrimental to their development. These needs are also found in developed countries, where there remain sectors of the economically disadvantaged. There are additional differences between various social strata and ethnic groups, some of which are better off than others.

11. However, the poverty argument cannot be taken too far. There are many poor societies in which children are not pushed into the sex trade. One should not take a defeatist attitude to the poverty factor; it should not be used to legitimize child sexual exploitation as a *fait accompli*. Indeed, the exploitation of children

cannot be justified by poverty or underdevelopment. Besides the long-term action required to treat the underlying causes and thus prevent these phenomena from occurring in the future, it is essential that States take urgent and immediate measures to reduce the dangers facing children.

12. There is an innate quest for the satisfaction of basic human needs and balanced development, inter-linked with food, education and work; the search for a better life, both physical and mental, is interwoven with the development process, the community, the family and the child. However, upon closer scrutiny, it is often not poverty *per se* that drives children into exploitative situations; it is poverty plus other factors that are at work. These include market demand and the criminal networks analysed below. Moreover, the poverty argument is somewhat weakened when set in the context of national budgetary allocations. Many countries—even those claiming to be poor—spend far too much on arms purchases and far too little on child development and protection.

2. Family decline

13. Compounding these socio-economic needs is the increasing occurrence of family breakdown, exacerbated by migration from rural to urban areas and from one country to another. As parents are pressured to meet the exigencies of modern life, children may find themselves neglected or abused. They may become "run-

aways, throwaways or walkaways",⁶ precisely because the safety net traditionally provided by the family unit no longer affords them security. The disintegration affects both the nuclear family and the extended family. Societies which previously could count on the extended family as a support system are now pressured by dislocation, which deprives them of traditional social security. Children are often the first victims of this disintegration.

14. This situation is linked with the question of population growth and how people's desire to improve their quality of life is satisfied. Inadequate population planning may lead to a population explosion and, ultimately, unwanted children. In some societies, a child may then be offered at a price to ensure the existence of others. Gender discrimination, dealt with below, aggravates the plight of the girl child and at times leads to infanticide.

15. Materialism and unabashed consumerism take an additional toll where spiritual values among families are neglected. Much of the exploitation of children arises precisely because material values have overtaken those which put a premium on human life and development. Shamefully, the rights of a child may be violated because he or she is viewed as a factor of production, as an investment for economic returns, rather than as an entity vested with substantive rights and inherent dignity.

3. Sociocultural discrepancies and discrimination

16. Sociocultural discrepancies contribute to sexual exploitation of children. Age-old discrimination against women, for instance, may lead to fewer educational and occupational opportunities for girls. The preference for boys in many societies, coupled with a chauvinistic attitude towards the development of women, often places girls at a disadvantage; they are the ones to be exploited first. This is particularly evident in those societies which push girls into prostitution. In addition, certain religious practices such as those which exploit girls as "sex goddesses" need to be countered to ensure that gender stereotyping is not a pretext for child sexual exploitation.⁷ Traditional taboos and stigmas aggravate the plight of child victims of exploitation, and the rehabilitation process is rendered more difficult because of societal attitudes that discriminate against, rather than empathize with, the victims. The paradox is evident in the following observation:

Prostitution is tolerated, rather accepted as a necessary social evil, an inevitable and integral part of civilization . . . Public opinion is that prostitutes are not victims of society's apathy but that only morally loose women get into this profession. This, however, is untrue.⁸

⁶ Buys, op. cit. (footnote 1 (d) above), p. 6.

⁷ An example, in South Asia, is the Devadasi practice of delivering girls to temples to become "goddesses", after which they fall into prostitution.

⁸ P. Patkar, "Overview of prostitution in the ESCAP region: India", paper presented at the Workshop on the Promotion of Community Awareness for Prevention of Prostitution in the ESCAP Region (Lampang, Thailand, 20-27 August 1991), p. 1.

⁴ United Nations publication, Sales No. E.89.IV.1, p. ix.

⁵ Statement of non-governmental organizations on the draft programme of action for the prevention of the sale of children, child prostitution and child pornography (June 1991).

4. Supply and demand

17. One economic law appears to hold true for children who are exploited and abused: because there is demand, there is supply, and vice versa. This truism is based on the fact that, although socio-economic and other needs may lead to child sexual exploitation, there is at the same time a sector of the community which benefits from such trade: there is a market demand. Traditional arguments which explain the root causes of child sexual exploitation on the basis of poverty are incomplete because they neglect the fact that there is a ready market of customers and intermediaries, such as pimps and procurers, who act as the "pull" factor. The increasing insidiousness of the demand leads to more children being abducted and lured into sexual exploitation both nationally and across frontiers. The ever-spreading web of this factor is new. For example, South-East Asian women are lured into prostitution in East Asia and Europe; African and South American women are trafficked for prostitution in Europe and North America.

18. Ironically, the situation has become more convoluted because many of the countries that were previously "supply countries" have now become "demand countries". This trend may be termed "inverse supply and demand". For example, whereas previously some South-East Asian countries were well known as having a large group of local children in the sex trade, now there is an increasing flow of children from other countries into these countries for sexual exploitation.

19. Thus, while efforts must be made to attenuate the socio-economic and other needs of families and children, the need for strategies to tackle the demand factor must also be borne in mind to counter child sexual exploitation.

5. Transnationalization

20. The increasing transnationalization of the problem of child sexual exploitation is most disconcerting. When the situation seems to improve in one country, the problem arises in another part of the world, thereby being perpetuated and aggravated. For example, Eastern Europe has come to the fore in recent years as a new market for child sexual exploitation. Meanwhile, sex tourism has become more widespread across all continents. Paedophiles from developed countries are known to visit developing countries to victimize children. Two issues invite current debate in this regard: the responsibility of consumers/customers, including those possessing child pornography; and the possibility of extending national jurisdiction to cover crimes committed abroad by a country's nationals.

21. At times, the transnational trafficking of children is linked with abduction and disappearance of children across frontiers. In the absence of multilateral and bilateral agreements to facilitate the tracing and return of those children, the scenario remains intractable and opaque.

6. Systematic criminality

22. There is an extensive criminal system at work which exploits children for sexual purposes. Such opera-

tions range from small-scale activities to large-scale, Mafia-type networks. There is at times a linkage with the drugs trade. More worrying still is the fact that some high-ranking policy makers and law enforcement personnel often have a hand in the process. The abuse is multi-layered.

23. Much of this activity is linked with corruption within national systems and the fact that many elements of the law enforcement authorities collude actively or passively with criminal elements. The problem is compounded by the fact that, although all countries have laws to protect children, there is a huge gap between those norms and current practices; many countries suffer from poor law enforcement. The following comment deserves note:

The organized crime is lying low, but no one ever sees it in its entirety. If this is only due to lack of effort and will, this has distinct reasons. The most important reason is the political strain caused by initiating large investigations in one's own country. Thereby one also admits that children are being bought and sold, that children are abused, that children are most grossly molested. These are concessions which only few administrations can live with.⁹

24. The seemingly easy option of reforming the law will never suffice unless the issues of high standards of law enforcement and effective measures to counter criminality and corruption within the system are also addressed.

25. On the one hand, there is the issue of how best to mobilize law enforcement authorities against the exploiters of children. This is inevitably shaped by the need to examine factors conducive to behavioural change; criminal sanctions alone will not suffice if there are psychological and other reasons leading to certain types of behaviour which cannot be cured by fines and prison sentences. This issue is linked to the interdisciplinary approach referred to later in this study. On the other hand, there is the question of how to stimulate law enforcement authorities to improve their performance. If police are badly paid, poor enforcement is likely to result. Moreover, if child exploitation is an integral part of a community's problems, the community itself should participate actively in law enforcement. Does it participate sufficiently, or is it allowed to do so? Community awareness and participation are a necessary complement to the work of law enforcement.

26. In addition, in federal systems a key question is the liaison between the jurisdiction of federal authorities and that of state and local authorities in countering crime. This is all the more important as local authorities are at times ineffective and need to be bolstered by federal measures.

27. On another front, it may be noted that criminal law *per se* is curative by nature and cannot suffice to tackle the root causes of exploitation: laws and policies aimed at prevention are equally important. This may involve, for instance, social security and welfare laws giving assistance to families to enable them to keep their children, so that the latter grow up safely and are not forced to engage in exploitative activities for lack of other alternatives.

⁹ Andersen, op. cit. (footnote 1 (c) above), p. 64.

7. Technology and industrialization

28. Just as new technology may help to protect children worldwide, it may also be used to exploit them. Technological advances may render the problem of child exploitation more extensive, instantaneous and elusive, all at the same time.¹⁰ This is exemplified by the spread of telephone and computer facilities which may be used for the purpose of child exploitation, including child prostitution and child pornography.

29. On a related front, while the process of industrialization may bring benefits in terms of economic development, it may lead to distortions if measures are not taken to protect children and their families and to distribute income and resources in keeping with aspirations of equity. The growth of the service sector, for example the tourist and entertainment industries, could lead to new forms of exploitation, with children being treated merely as elements of production and service, without regard for their rights.

8. Spiral factor and chain effect

30. The term "spiral factor" is used to describe the phenomenon whereby the sex trade is spiralling towards very young victims. While traditionally some customers believed that, by resorting to young victims, they could rejuvenate themselves, there is now the equally disturbing trend of believing that, if they select the young, they can protect themselves from the threat of HIV/AIDS. In many quarters, therefore, the victims are becoming younger and younger, and the threat to their health is doubly worrying because it is often the customers who infect them with venereal diseases or HIV/AIDS.

31. Parallel to this trend, the term "chain effect" denotes the linkage between various forms of malpractice and the fact that one form may lead to another. This is most evident in the case of child abuse, where the abused person may subsequently become an abuser. This is also a visible cause of family disintegration, which may compel children to run away from home and then resort to prostitution as a means of subsistence. The process may evolve into child pornography, which is only one step away from prostitution.

32. Children in such difficulties may become dependent on narcotics, which in turn leads to greater dependence on prostitution and/or pornography as a means of purchasing drugs. The child's attachment to criminal patterns thus intensifies over time.

33. This chain effect prompts us to view the question of child sexual exploitation as a growing dynamic which has a range of negative consequences. To break that vicious cycle, more than a legalistic approach is required.

C. Rights of the child

34. Sexual exploitation of children is undeniably a breach of human rights. This has become all the more

significant since the entry into force in 1990 of the Convention on the Rights of the Child (see annex I)—a binding international treaty which concretizes the rights vested in children. To date, more than 180 countries are parties to the Convention, which has been reinforced by other recent instruments and initiatives discussed below.

1. Convention on the Rights of the Child

35. The Convention (see annex I) consists of 54 articles. Some 40 articles deal with substantive rights, while the rest concern mainly procedural matters to facilitate monitoring of the substantive rights. These are the minimum rights which States parties undertake to guarantee for children without discrimination. For all purposes, the "best interests" of the child are recognized as a primary consideration.¹¹ As already mentioned (para. 5 above), the Convention sets the threshold for the differentiation between childhood and adulthood at 18 years.

36. The rights enunciated in the Convention address issues of survival, development, protection and participation of children. They include civil, political, economic, social and cultural rights, exemplified by such provisions as those on the right to life, the prohibition against torture, freedom of thought and religion, the right to acquire a nationality, the right to education, the right to health and the right to social security. Significantly, the Convention highlights the concerns of special groups of children, including those abused, exploited and neglected. There is a particular call to deal with the plight of such children in difficulties by according them more effective protection. These groups include sexually exploited children, child workers, handicapped children, refugee children, orphans, minority and indigenous children, children in detention and child soldiers.

37. More specifically on sexual exploitation, the following articles of the Convention are most pertinent:

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and as appropriate, for judicial involvement.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

¹¹ See V. Muntarhorn, "The Convention on the Rights of the Child: Reaching the Unreached?", *Bulletin of Human Rights*, vol. 91/2, p. 66.

¹⁰ See E/CN.4/1993/67 (see footnote 1 above), paras. 8-10.

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multi-lateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

38. It is precisely this broad context that requires multifaceted responses. The scope of action demanded covers not only legislative responses, but also realistic policies and social, administrative and other measures to prevent and overcome difficulties faced by children. Interestingly, while the Convention is at first glance addressed to the public realm of State actors, it is equally concerned with the private domain of non-State actors, including families, parents, non-governmental organizations, the business sector and the community. The linkage between the public and the private is all the more notable because both State and non-State actors are potentially the guardians as well as the exploiters of children.

39. The Convention has now become truly operational with the establishment of a 10-member Committee on the Rights of the Child. States parties are obliged to report to the Committee periodically, and their compliance with the Convention is monitored by the Committee. Although the conclusions and recommendations of the Committee are not binding, they have a catalytic effect in urging States to initiate reform on behalf of children.

2. *World Declaration and Plan of Action from the World Summit for Children*

40. In 1990, a record number of world leaders met at the World Summit for Children in New York and adopted the World Declaration on the Survival, Protection and Development of Children and the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s.¹² Although the World Declaration is not a binding instrument, the Plan of Action sets various goals for child survival, protection and development.

41. In the World Declaration, the world leaders committed themselves to the following points having an impact on the issue of sexual exploitation:

20. ...

(1) We will work to promote earliest possible ratification and implementation of the Convention on the Rights of the Child. ...

...

¹² A/45/625, annex.

(7) We will work to ameliorate the plight of millions of children who live under especially difficult circumstances—... the abused, the socially disadvantaged and the exploited. ...

...

42. While the goals set in the Plan of Action for survival and development issues such as education, health and nutrition are based on quantitative assessments—for example, universal access to basic education by the year 2000—the goals set for exploited children are less defined, as follows:

II. SUPPORTING/SECTORAL GOALS

...

F. Children in difficult circumstances

Provide improved protection of children in especially difficult circumstances and tackle the root causes leading to such situations.¹³

Adequate indicators of progress against sexual exploitation have yet to be worked out by the international community under this framework. The basis would not necessarily be quantitative goals, but rather qualitative assessments.

43. With the support of UNICEF, the World Declaration and the Plan of Action have led to country plans of action under which the goals set universally can be implemented more concretely at the national level.

3. *Vienna Declaration and Programme of Action*

44. The universalization of child rights was reinforced in 1993 with the adoption by the World Conference on Human Rights of the Vienna Declaration and Programme of Action.¹⁴ Although non-binding, the Declaration and Programme of Action contain key provisions on child exploitation, as follows:

I

...

21. The World Conference on Human Rights, welcoming the early ratification of the Convention on the Rights of the Child by a large number of States and noting the recognition of the human rights of children in the World Declaration on the Survival, Protection and Development of Children and Plan of Action adopted by the World Summit for Children, urges universal ratification of the Convention by 1995 and its effective implementation by States parties through the adoption of all the necessary legislative, administrative and other measures and the allocation to the maximum extent of the available resources. In all actions concerning children, non-discrimination and the best interests of the child should be primary considerations and the views of the child given due weight. National and international mechanisms and programmes should be strengthened for the defence and protection of children, in particular the girl child, abandoned children, street children, economically and sexually exploited children, including through child pornography, child prostitution ...

...

II

...

48. The World Conference on Human Rights urges all States, with the support of international cooperation, to address the acute problem of children under especially difficult circumstances. Exploitation and abuse of children should be actively combated, including by addressing their root causes. Effective measures are required against female infanticide, harmful child labour, sale of children and organs, child prostitution, child pornography, as well as other forms of sexual abuse.

...

¹³ Appendix to the Plan of Action (ibid.).

¹⁴ A/CONF.157/24 (Part I), chap. III.

4. Initiatives of the Commission on Human Rights

45. The Commission on Human Rights, which meets annually in Geneva, has been instrumental for the past few years in addressing the issue of sexual exploitation of children. Its work in this field is reinforced by that of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Working Group on Contemporary Forms of Slavery.

46. In 1990, the Commission established the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography. Since then, the Special Rapporteur has presented annual reports to the Commission. The current mandate is for three years. The Special Rapporteur's method of work has evolved as follows:

(a) the preparation and presentation of annual reports on the sale of children, child prostitution and child pornography, covering the global situation;

(b) field visits to countries on a balanced geographical basis—both developing and developed countries—to prepare country-specific reports which are used as case-studies for presentation to the Commission and to the countries concerned;

(c) communications with Governments where there are allegations of violations of child rights, in accordance with the terms of the mandate;

(d) promotion of international cooperation through contacts with countries, relevant national and international organizations, and children themselves.¹⁵

47. Extensive information was gathered by the Special Rapporteur directly from Governments and the non-governmental sector in 1991-1992 by means of a detailed questionnaire. Since the questionnaire reflects the approach and emphasis of the Special Rapporteur's mandate, it is included at the end of this study (see annex II).

48. More recently, the Commission and its subsidiary bodies have evolved various programmes of action which have a direct impact on the issue of child sexual exploitation. These include the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography¹⁶ (see annex III) and the draft programme of action for prevention of traffic in persons and the exploitation of the prostitution of others.¹⁷ Details of these initiatives are provided later in this study (see paras. 71-73 and 127 below).¹⁸

5. Concerns

49. The international trends noted above suggest that the interface between sexual exploitation and the rights of the child is recognized as requiring urgent action at both the international and the national levels. Al-

though the promulgation of laws can help to prevent or remedy child sexual exploitation, much more is needed. Multifaceted action—socio-economic, cultural, political and environmental—should be advocated across a pluridisciplinary or interdisciplinary spectrum.

50. The problem also has to be placed within the overall context of development. There is a need to change inequitable structures at the national and international levels and to allocate resources for those in need. Allocations by States "to the maximum extent of their available resources"¹⁹ should imply more equitable budgetary priorities: less on militarization and more on child development and protection.

51. Prevention of the problem is closely interrelated with the family nexus and the fulfilment of its needs, such as access to education and occupational opportunities. To help the family is also to help the child. From another angle, remedies in the form of legal sanctions alone do not suffice precisely because other stimuli for change are required. In the curing process, social interventions, including counselling and rehabilitation facilities and subsidies, are needed for children and families which have fallen into difficulties. At times, abusers and exploiters may also require parallel facilities in order to change their conduct.

52. There is a close bond between legal, economic, social, cultural, political and even environmental strategies. While poverty in the guise of socio-economic needs may be a predominant factor leading to child exploitation, cultural stigmas and taboos may aggravate the situation. Moreover, the fact that a political system is undemocratic may imply that changes designed to improve the child's plight are more difficult for lack of a participatory approach. In the same way, as the quality of the environment declines, whether it be the environment of the womb, the family, the workplace or the world beyond, existence is at stake and the competition for survival leads to distortions.

53. If these concerns encompass a plethora of causes and effects, they call for correlative strategies to be comprehensive and pluralistic. It is not only the law that counts, but also the whole development process. It is not only policies that count, but also implementation, evaluation and concomitant budgets. It is not only education that counts, but also earnings. It is not only the government sector that counts, but also the non-governmental sector, particularly the call for broad-based community participation. It is not only federal programmes that count, but also municipal and local action. It is not only the exploited child who has to be helped, but also the exploiter, who has to be countered and prevented from committing acts of exploitation. It is not only national initiatives that are advocated, but also international commitment, with the child and the family as the centre of human development.

¹⁵ See the reports of the Special Rapporteur cited in footnote 1 above.

¹⁶ Commission on Human Rights resolution 1992/74 of 5 March 1992, annex (*Official Records of the Economic and Social Council, 1992, Supplement No. 2 (E/1992/22)*, chap. II, sect. A).

¹⁷ See E/CN.4/Sub.2/1991/41 and Corr.1, annex I.A. (draft resolution I).

¹⁸ See also E/CN.4/1993/67 (see footnote 1 above), paras. 155-157 and 200.

¹⁹ Article 4 of the Convention on the Rights of the Child (see annex I) states:

"States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and where needed, within the framework of international cooperation."

II. CHILD PROSTITUTION

54. A disquieting manifestation of child sexual exploitation is the problem of child prostitution. Although child prostitution is generally accepted as being in breach of the rights of the child, the realities are less reassuring.

55. The following account is typical of the tragedies that may occur in many parts of the world:

Shabmaher was apparently taken from the house where she had been working as a maidservant by a female agent who subsequently sold her for 2,000 taka (approximately US\$ 60) to the Tanbazar brothel ... Refusal to comply with the wishes of the Sardanis ("madams") in the brothel resulted in merciless torture being inflicted on her, after which she was found in an unconscious and miserable condition in a running train. Although her body was rescued, she died a tragic death at the hospital.²⁰

A. Context

56. Child prostitution may be defined as

the sexual exploitation of a child for remuneration in cash or in kind, usually but not always organized by an intermediary (parent, family member, procurer, teacher, etc.).²¹

The root causes of the problem have already been referred to. Poverty rears its head consistently in developing countries, but it also emerges in developed countries where there are pockets of the disadvantaged. Because many families are unable to support their children, the latter become easy prey for the sex trade. This is compounded by family disintegration, including incest and domestic violence, as well as migration from rural to urban areas and from one country to another in search of a livelihood. More often than not, however, it is not poverty alone which pushes children to become victims of prostitution. There are the additional factors of market demand and criminal networks, aggravated by sociocultural traditions and practices mixed with discrimination against the girl child.

²⁰ I. Shamin, "Overview of prostitution in the ESCAP region: Bangladesh", paper presented at the Workshop on the Promotion of Community Awareness for Prevention of Prostitution in the ESCAP Region (Lampang, Thailand, 20-27 August 1991), p. 6. For general reading, see (a) Defence for Children International, *Child Prostitution, Trafficking and Pornography* (Geneva, 1986); (b) Interpol, *Report of the International Symposium on Traffic in Human Beings* (Lyon, 1988); (c) *Report of the International Seminar on the Implementation of the Convention on the Rights of the Child with Special Reference to the Exploitation of Child Labour, Bonded Labour and Trafficking and the Sale of Children* (Siracusa, Italy, Defence for Children International, 1990); (d) *International Criminal Police Review* (Lyon), vol. 428 (1991).

²¹ Definition contained in the questionnaire circulated by the Special Rapporteur on the sale of children, child prostitution and child pornography in 1991 (see annex II).

57. This study does not pass judgement on adult prostitution. However, child prostitution is inadmissible; it is tantamount to exploitation and victimization of the child precisely because it undermines the child's development. It is detrimental to the child both physically and emotionally, and it violates the child's rights.

58. In this regard, it is interesting that legislation against exploitation of child victims of prostitution exists in all countries to a greater or lesser extent. It may take the form of a specific law on child prostitution or exist in a more general form, for example in a criminal code. Yet enforcement of this legislation is poor. There is the additional issue of the age of consent. Although in principle prostitution should not be permitted for those under 18 years of age, in accordance with the Convention on the Rights of the Child (see para. 5 above), many countries set the age of consent for sexual intercourse below 18, usually between 13 and 17. In some cases, this means that the customer is exempt from responsibility if the child victim consents, even though the latter is under 18 years of age. This discrepancy may lead to a situation where the law enforcement authorities would be reluctant to act, particularly if the child victim is considered old enough to consent and yet is younger than eighteen.

59. The context of the problem is more depressing because there are transnational elements at work, trading and trafficking across borders. This trade may take the form of abduction or employ other modalities such as false identity and other documentation, or sham marriages. There are also connections with other forms of abuse, such as child pornography and narcotics. At another level, the rise of sex tourism increases the occurrence of transcontinental prostitution. There is a "mutual flow" system at work: the supply factor may physically move to the demand side, or the demand factor may move to the supply side.

60. The range of child prostitution varies from individual cases to mass victims of organized crime. This may encompass a selection of children: some runaways from home or from State institutions, some sold by their parents, some forced or tricked into prostitution, some street children, some involved part-time, some full-time, some amateurs and some professionals. Although one tends to think first and foremost of young girls in the trade, there has been an increase in the number of young boys engaged in prostitution. The most disquieting cases are those of children forced into the trade and then incarcerated; they may suffer torture and even death.

61. The types of sale and trafficking of children include the following:

- a. Procurers and criminal organizations sell children to brothels either in a country or abroad.
- b. Procurers and criminal organizations supply children to clients.
- c. Individual paedophiles acquire children for their own use.
- d. Paedophilia organizations acquire children for their members.²²

62. One source lists the following routes of transnational trafficking in children:

1. From Latin America to Europe and the Middle East.
2. From South-East Asia to Northern Europe and the Middle East.
3. International regional market in Europe.
4. Traffic from various regions of Africa.
5. Arab regional market.²³

63. The link between routes of trafficking and networks is found not only between developing and developed countries, but also between developing countries. This is illustrated by the following account:

Most professionally organized sexual exploitation of children was found to be present in all the countries studied. In the Philippines, in Thailand and in India networks covering the whole or parts of the country were registered. These networks have agents that systematically recruit children into prostitution, through bribery, threats and kidnapping. Recruitment in neighbouring countries is also common. Children from Myanmar are for instance being recruited into Thailand, and children from Nepal and Bangladesh go to India.²⁴

64. The situation is rendered more complex by the statistics debate. In one country, there is a debate as to whether there are really 800,000 child victims of prostitution or whether the figure is a gross exaggeration. The available statistics are often out of date. It is, however, submitted that even if one child is exploited sexually, it is a serious matter.

65. In general, it may be said that the numbers are highest in Asia and in Central and South America, particularly having regard to the massive numbers of street children in those regions—the linkage with prostitution is not difficult to perceive. However, there are also reports of an increase in child prostitution in Africa, North America, Europe and Australia. Given the fact that demand and supply in regard to transnational prostitution are worldwide, the problem of child prostitution clearly affects all countries.

B. International developments

66. The approach to the problem of child prostitution at the international level varies between one of "hard law" in the form of international conventions and one of "soft law" in the form of persuasive pronouncements.

67. There have been a host of international conventions touching upon the issue of slavery and sexual exploitation dating back to the early part of this century. One of the more frequently cited is the 1949 Convention

for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.²⁵ Basically, the Convention legislates against procurers and exploiters of prostitutes rather than against the prostitutes themselves. The 1979 Convention on the Elimination of All Forms of Discrimination against Women²⁶ also provides, in article 6, that States parties "shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women".

68. The earlier conventions suffered, in particular, from a paucity of accessions by States and the lack of a monitoring mechanism. All of them have been impeded by poor implementation at the national level. Moreover, the legalistic approach advanced by some of these instruments neglects the interdisciplinary approach advocated earlier in this study to address both prevention and cure.

69. Specific attention was paid to the problem by the 1959 Declaration of the Rights of the Child,²⁷ which called for protection of children against neglect and exploitation (Principle 9). However, the Declaration was not a binding treaty. The entry into force in 1990 of the Convention on the Rights of the Child (see annex I) was therefore a milestone in the process as it is a binding international agreement. Article 34 of the Convention exhorts States as follows:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;

...

70. Implementation is again a daunting challenge. In the various country reports submitted to the Committee on the Rights of the Child—established under the Convention (art. 43)—the information provided on child prostitution has so far not been very detailed and the issue deserves closer monitoring in the future.²⁸

71. The "soft law" approach may also be helpful. Most relevant in this regard is the Programme of Action for the Prevention of the Sale of Children, Child Prosti-

²⁵ General Assembly resolution 317 (IV) of 2 December 1949, annex.

²⁶ General Assembly resolution 34/180 of 18 December 1979, annex.

²⁷ General Assembly resolution 1386 (XIV) of 20 November 1959.

²⁸ By the beginning of 1996, the Committee on the Rights of the Child had considered some 50 reports from States parties, namely: Argentina, Belarus, Belgium, Bolivia, Burkina Faso, Canada, Chile, Colombia, Costa Rica, Croatia, Denmark, Egypt, El Salvador, Finland, France, Germany, Holy See, Honduras, Iceland, Indonesia, Italy, Jamaica, Jordan, Lebanon, Madagascar, Mexico, Mongolia, Namibia, Nicaragua, Norway, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Senegal, Spain, Sri Lanka, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Viet Nam, Yemen and Yugoslavia.

²² Buys, op. cit. (footnote 1 (d) above), p. 15.

²³ Ibid. See also *Child Prostitution, Trafficking and Pornography* (see footnote 20 (a) above); and *Report of the International Symposium on Traffic in Human Beings* (see footnote 20 (b) above).

²⁴ Narvesen, op. cit. (footnote 1 (e) above), pp. 8-9.

tution and Child Pornography (see annex III) adopted by the Commission on Human Rights in 1992.²⁹ The Programme of Action was originally prepared by the Working Group on Contemporary Forms of Slavery and was propelled by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. It calls for better law enforcement and more cooperation between key organizations such as Interpol and United Nations agencies. Its multifaceted approach includes the following elements:

(a) *Information and education*

(i) An international information campaign to raise public consciousness, including participation of religious and lay organizations and the media;

(ii) Improvement of the sources of information;

(iii) Provision of educational measures to raise awareness of the issue;

(iv) Alternative educational programmes for street children;

(b) *Social measures and development assistance*

(i) Development activities to tackle poverty and aimed at improving the conditions of life for women and children;

(ii) Severe penalties for consumers and procurers;

(iii) Punishment of intermediaries and confiscation of the proceeds of their activities;

(iv) Accession to relevant international treaties and their implementation;

(c) *Rehabilitation and reintegration*

Interdisciplinary programmes to assist the rehabilitation and reintegration of victims and their families;

(d) *International cooperation*

Bilateral and multilateral cooperation among law enforcement agencies.

72. The following specific concerns are voiced in the Programme of Action:

46. Incest and sexual abuse within the family or by the child's employers may lead to child prostitution. States therefore should take all appropriate legislative, administrative, social and educational measures to protect children against all forms of abuse while in the care of parents, family or legal guardians or any other person.

47. Special attention should be paid to the problem of sex tourism. Legislative and other measures should be taken to prevent and combat sex tourism, both in the countries from which the customers come and those to which they go. Marketing tourism through the enticement of sex with children should be penalized on the same level as procurement.

48. The World Tourism Organization should be encouraged to convene an expert meeting designed to offer practical measures to combat sex tourism.

49. States with military bases or troops, stationed on foreign territory or not, should take all the necessary measures to prevent such military personnel from being involved in child prostitution. The same applies to other categories of public servants who for professional reasons are posted abroad.

50. Legislation should be adopted to prevent new forms of technology from being used for soliciting for child prostitution.

73. The Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities has also prepared a draft programme of action for prevention of traffic in persons and the exploitation of the prostitution of others,³⁰ which although not specifically addressed to children, contains various strategies which can be promoted for their protection. These include information, social measures and development assistance, legal measures and law enforcement, rehabilitation and reintegration, and international coordination.

74. These programmes of action deserve to be disseminated widely at the national level, and implementation by States should be encouraged, with consistent monitoring and reporting to the Commission on Human Rights as well as to other relevant international bodies, such as the Committee on the Rights of the Child and the Special Rapporteur on the sale of children, child prostitution and child pornography.

75. With regard to children being used as instruments of crime, it is worth noting the work of the United Nations Crime Prevention and Criminal Justice Branch in Vienna. One outcome of this work was the adoption in 1990 of the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines),³¹ which advocate the following action:

—Stepping up research on child exploitation, prevention programmes and their assessment, interdisciplinary cooperation, circulation of information about behaviour liable to create child victims (recommendations regarding legislation, appointment of ombudsmen, training courses for police officers);

—[Propelling] the United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

—[Promoting] international cooperation and mutual assistance by instituting training programmes and exchanging experts;

—Protecting crime victims;

—Reassessing legislation on the exploitation of children;

—[Providing] legal aid for children;

—[Fostering] a multidisciplinary approach to crime prevention;

—[Advocating] the introduction of free telephone helplines for children.³²

76. Since tourism is increasingly being scrutinized for its linkage with child sexual exploitation, it should be recalled that, in 1985, the World Tourism Organization adopted the Tourism Bill of Rights and Tourist Code, in which:

(a) States are reminded of the need to prevent any possibility of using tourism to exploit others for prostitution purposes (art. IV.8 (e));

(b) Tourism professionals and suppliers of tourism and travel services are asked to refrain from encouraging the use of tourism for all forms of exploitation of others (art. VIII.3);

³⁰ See footnote 17 above.

³¹ General Assembly resolution 45/112 of 14 December 1990, annex.

³² Interpol, *Report of the Standing Working Party on Offences Committed against Minors* (Lyon, 1993), pp. 12-13.

²⁹ See footnote 16 above.

(c) Tourists themselves are requested to refrain from exploiting others for prostitution purposes (art. XI (d)).³³

This instrument may also be used to exert peer-group pressure on tourists and tourist agencies to be more responsive to the call to eradicate child sexual exploitation.

77. More recently, Interpol has stepped in to probe the issue of sexual offences against minors. It has set up a Standing Working Party on Offences Committed against Minors. At its meeting in March 1993, the Working Party established subgroups to look into the following issues:

(a) law enforcement, legislation—including on child prostitution—international cooperation, a liaison network and sex tourism;

(b) victim assistance, police structures, missing children, free telephone helplines, prevention models, training, research and statistics.³⁴

The Working Party is proposing to share information via contact agents, particularly on paedophiles' movements, and to collect information concerning national laws on child prostitution.

78. The multilateral approach is paralleled by regional and bilateral initiatives. These are exemplified by the African Charter on the Rights and Welfare of the Child,³⁵ which calls for children to be protected from exploitation. In 1991, the Committee of Ministers of the Council of Europe adopted a Recommendation on Sexual Exploitation, Pornography and Prostitution of, and Trafficking in, Children and Young Adults.³⁶ The Recommendation emphasizes the importance of organizing the public against sexual exploitation and of information campaigns, information collection, interaction with travel agencies, accession to international instruments, expansion of national jurisdiction to cover the misdeeds of nationals abroad, exchange of information, and more research on paedophilia and the link between the sex industry and organized crime.

79. At a meeting organized by the United Nations in the Asian and Pacific region on the promotion of community awareness for the prevention of prostitution, the need to break the silence on the issue was accentuated to prevent stigmatization and to promote economic measures, awareness-raising, assistance and shelter for prostitutes, research on AIDS, and accession to relevant international instruments.³⁷ The meeting also called for decriminalization of prostitution in general, and for punishment for the exploiters of prostitutes.

80. In the lead-up to the 1993 World Conference on Human Rights, various regional meetings also highlighted the plight of the child and called for more cooperation. Asian Governments, in their 1993 Bangkok

Governmental Declaration on Human Rights, emphasized

the rights of the child to enjoy special protection and to be afforded the opportunities and facilities to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and integrity.³⁸

At the same time, non-governmental organizations adopted the Bangkok NGO Declaration on Human Rights, calling for attention to the following:

13. *Children.* A variety of abuses and exploitation of children arise in the region. These include child labour, children in bondage and sexual slavery, child prostitution, sale and trafficking of children ... Implementation of the rights of children to survival, protection, development and participation as embodied in the ... Convention on the Rights of the Child must be a paramount concern of every State regardless of considerations of national capacity and security.³⁹

81. Non-governmental organizations have become increasingly coordinated in networking to prevent child prostitution through an effective media campaign. Worthy of note is the ECPAT (End Child Prostitution in Asian Tourism) campaign. Its country links include Australia, France, Germany, India, Japan, the Philippines, Sri Lanka, Switzerland, Taiwan, Thailand, the United States of America and Viet Nam. It has been effective in mobilizing action at the national level, e.g. a children's forum against military bases, advocacy against paedophilia, and campaigns against exploitative use of children in advertising in various countries. ECPAT has also been instrumental in preparing the groundwork for the World Congress on the Commercial Sexual Exploitation of Children, to be held at Stockholm in August 1996. The World Congress has received support from both governmental and non-governmental sectors. A major objective of the Congress is to build a closer partnership to eliminate the phenomenon of commercial sexual exploitation of children worldwide. The Congress is expected to adopt a blueprint for future action in the form of a declaration and agenda for action oriented towards integrated measures based on cooperation, prevention, protection, child recovery and reintegration, and child participation.

C. National developments

82. As already indicated, laws which could be used to apprehend exploiters of child prostitution are to be found in virtually all legal systems. Examples in North America include the various state laws in the United States and the Canadian Criminal Code. In Europe, criminal or penal codes provide protection to children in virtually all countries including Bulgaria, the Czech Republic, Denmark, France, Germany, Italy, the Netherlands, Norway, Spain and Sweden, although the age of consent varies by country. There is also specific legislation on children and young persons which defines the powers of the police in such matters, for example in the United Kingdom.

³³ E/CN.4/Sub.2/1993/31, para. 81.

³⁴ *Report of the Standing Working Party...* (see footnote 32 above) p. 13.

³⁵ Adopted by the member States of the Organization of African Unity at Addis Ababa on 11 July 1990 (see OAU document CAB/LEG/153/Rev.2).

³⁶ Recommendation No. R (91) 11 of 9 September 1991.

³⁷ See ST/ESCAP/1078.

³⁸ See *Our Voice: Bangkok NGO Declaration on Human Rights* (Bangkok, Asian Cultural Forum on Development, 1993), p. 247.

³⁹ *Ibid.*, p. 205. See also A/CONF.157/PC/83.

83. In Asia, the pattern of legislation is similar. Provisions in criminal or penal codes exist, for example, in Bangladesh, Japan, the Philippines and Thailand. Specific legislation on children and sexual exploitation can be found in several countries, including India, Sri Lanka and Thailand. Some traditional practices which could lead to children being used in child prostitution, such as the Devadasi custom of deifying young girls (who ultimately fall into prostitution), have also been banned by law—an example being the Indian Devadasi Prohibition of Dedication Act. However, the custom persists in practice.

84. In Central and South America, there are similar criminal laws or specific child-related laws which can be used to protect children from sexual exploitation. Innovations include the 1990 Statute of the Child and Adolescent in Brazil, which provides more decentralized measures against child exploitation.⁴⁰

85. In Africa, the juridical situation is similar, with either a criminal code or a specific child/youth law bearing on child prostitution in all countries.

86. In Australia, there is a wide variety of state legislation in a federal setting. Child prostitution is illegal, but the age threshold ranges between 16 and 18; in most states, there is protection for children under 16 years of age, and in some situations, the protection is extended to cover those under eighteen. The laws vary from the Criminal Code to a Children's Services Act.⁴¹

1. South-East Asia

87. A serious problem persists in South-East Asia. The cases of child victims of prostitution in Thailand and the Philippines are well documented.⁴² However, the problem is expanding. Trafficking of children for sexual exploitation to and from neighbouring countries in Asia has become more evident, as in the case of Cambodia, China, the Lao People's Democratic Republic, Myanmar and Viet Nam. Sex tourists visit these countries from many parts of the world, including Australia, North America, Europe, Japan and the Middle East. However, the impact of local tourism should not be underestimated: many customers are local rather than foreign, and customers from countries in the immediate vicinity are also evident, for example Malaysian tourists in Thailand.

88. Prosecution of sex tourists is an uphill task. In 1993, a Swedish paedophile was caught *in flagrante delicto* in Thailand. His passport was confiscated by the Thai authorities but he managed to acquire a new one. He then forfeited bail and fled the country. In 1995, close cooperation between the Thai and Swedish authorities resulted in his conviction for child sexual exploitation under Sweden's extraterritorial criminal law.

89. From another point of view, the high proportion of child victims of prostitution in Thailand has been aggravated by the arrival of children lured and trafficked from countries such as Cambodia, China, the Lao People's Democratic Republic and Myanmar. The Thai Government has adopted the issue of child prostitution as one requiring urgent countermeasures. However, law enforcement is still weak. Numerous reports concerning the inhumane treatment of girls from Myanmar trafficked into Thailand and then sent back to Myanmar have appeared in recent years.⁴³ There are indications that, where those repatriated from Thailand are found to be HIV-positive, they are segregated by the Myanmar authorities and/or may come to physical and psychological harm. The situation calls for guarantees of safety for these girls if they are to be returned to their country of origin. The process of return should be subject to consistent and independent monitoring, with international supervision.

90. In the Philippines, the extensive problem of child prostitution is linked with the large number of street children and the spread of the sex trade. The Government has taken positive measures to curb child exploitation by promoting the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act. There has been a clamp-down on foreign paedophiles and a number have been arrested and deported. However, judicial action against child sexual exploitation is not a simple matter. In a 1991 case involving the death of a girl allegedly abused by a foreign paedophile, the latter was acquitted on appeal on grounds of reasonable doubt concerning the evidence. The court stated:

It is with distressing reluctance that we have to seemingly set back the efforts of the Government to dramatize the death of Rosario Baluyot as a means of galvanizing the nation to care for its street children. It would have meant a lot to social workers and prosecutors alike if one paedophile killer could be brought to justice so that his example would arouse public concern, sufficient for the formulation and implementation of meaningful remedies. However, we cannot convict on anything less than proof beyond reasonable doubt.⁴⁴

The court also noted that paedophilia was still not a crime in the country's statutes. However, it added that the appellant had abused Philippine children, enticing them with money, and recommended his expulsion.

2. East and North-East Asia

91. Reports of child prostitution in China and Viet Nam are on the increase. This is partly due to the liberalization of economic policies—more open to the outside world and to foreign investments—which may also give rise to opportunities in the service sector, at times with negative results for children lured into that sector.

92. There have also been reports on Japan concerning the demand factor. Japanese tourists sometimes visit Asian countries for the purpose of obtaining sexual services. In Japan itself, there are a large number of undocumented workers, including workers in the sex trade,

⁴⁰ See E/CN.4/1992/55/Add.1 (see footnote 1 above), paras. 13 and 32-36.

⁴¹ See E/CN.4/1993/67/Add.1 (see footnote 1 above), para. 59.

⁴² See R. O'Grady, ed., *Children in Prostitution: Victims of Tourism in Asia* (Bangkok, End Child Prostitution in Asian Tourism (ECPAT), 1992); *The Child and the Tourist* (Bangkok, ECPAT, 1992).

⁴³ For a case concerning Thailand, see E/CN.4/1993/67 (see footnote 1 above), paras. 221-222.

⁴⁴ *People of the Philippines v. H. J. Ritter*, case No. 88582 (5 March 1991).

who are at times abused by their employers. Non-governmental organizations have filed suits against local employers of foreign prostitutes on charges of abduction and forced prostitution, leading to sentences against them.

3. South Asia

93. South Asia has an extensive market of child victims of prostitution. Sri Lanka is a destination for many foreign paedophiles. However, in 1991, a boy prostitution ring was identified and action taken against the exploiters. A number of paedophiles were deported.⁴⁵ Yet there remain various concerns in regard to girls working in the free-trade zone of the country, who are coerced into rendering sexual services.

94. The situation in India is disquieting, not only because of the large number of local and foreign child victims of prostitution, but also because of the spread of AIDS. A number of girls are trafficked from Nepal and Bangladesh. There remain various cultural practices which are detrimental to children, in particular the practice of selling children into religious institutions, after which they ultimately fall into prostitution.

95. Reports from Pakistan indicate trafficking of children from Bangladesh, Bhutan, India, Nepal and Sri Lanka. Tragically, girls forced into prostitution are sometimes arrested and placed in prison pending return to their country of origin. Various legislative anomalies discriminate against girl victims of prostitution, and at times procurers even offer bail to the authorities under the guise of wishing to help girls who are in prison. If released, the girls fall into the hands of the procurers again.

4. Africa

96. Many countries in Africa are faced with a rising child prostitution problem, partly due to poverty, migration from rural to urban areas, and the advent of tourism. The linkage with tourism is exemplified by the situation in Senegal. In Zimbabwe, the problem is related to the sex trade near the borders. The Sudan, Kenya and the Libyan Arab Jamahiriya are all on the list of countries facing the challenge. Algeria has been reported to be a place of transit for traffickers. In Mauritania, there are reports of foreign paedophiles at work and an increase in boy victims of prostitution. In Ghana, young girls are tricked into prostitution in the belief that they will become housemaids. Visible increases of children in situations of sexual exploitation are noted in Côte d'Ivoire and Burkina Faso. Parents are at times directly involved in the abuse, as documented in the report of Namibia to the Committee on the Rights of the Child in 1992.⁴⁶ Prosecution of perpetrators remains difficult, as seen in the case of Ethiopia.⁴⁷

⁴⁵ See *Children in Prostitution* . . . (see footnote 42 above), p. 61.

⁴⁶ See CRC/C/3/Add. 12, para. 484.

⁴⁷ See E/CN.4/1993/67 (see footnote 1 above), para. 182.

5. Europe

97. Child prostitution in Europe is often linked with runaway and homeless children. There are novel features to the problem, particularly in the light of new technology. In France, for example, recent developments include the use of the *Minitel* telephone system to offer the sexual services of children. One report suggests that parents may be involved in the trade.⁴⁸ Police have also revealed that tour operators in France are now increasing the prices of holidays in the Far East to cover the cost of legal proceedings in case their clients are arrested on child exploitation charges while abroad.⁴⁹

98. In Belgium, there are reports of networks luring women from other countries under the guise of dating agencies and marriage bureaux. In Spain, public attention was focused recently on the Edelweiss case involving trafficking of women from abroad and the provision of sexual services through saunas. However, it is not certain whether under-18s were involved in these cases. On another front, Eastern Europe is an expanding market for child sexual exploitation, as seen in the case of children sold for sex in the Russian Federation in 1993.⁵⁰

99. It is interesting that in Switzerland, in 1992, a non-governmental organization took action in court against a travel agency for arranging sex tours in developing countries. As a result, the travel agency was excluded from the Swiss Federation of Travel Agencies and had to close down. This illustrates the positive role which the private sector can play in exerting peer pressure for the protection of children.

100. There is often a close link between child prostitution and child pornography. A case in point in 1992 was an advertisement published by Lauda Air, an Austrian airline, with the cartoon depiction of a child in a pornographic pose inviting sexual exploitation. Due to protests from the non-governmental sector, the offending advertisement was withdrawn. In response to a communication from the Special Rapporteur on the sale of children, child prostitution and child pornography, who had alleged a violation of children's rights, the Austrian Government denied the allegation, as follows (excerpt):

Investigations by the competent Austrian authorities of the allegations against Lauda Air revealed that the company has not conducted any advertising campaign to promote travelling to Thailand for the purpose of engaging in sexual tourism . . .

The publication of these cartoons, whether they are judged to be of good taste or not, therefore, does not constitute a criminal offence in Austria. . . .⁵¹

101. The practices of paedophiles from many developed countries who travel to developing countries to exploit children for sexual purposes have led to a call to extend the criminal jurisdiction of countries of origin to cover the criminal acts of their nationals against children committed abroad. At least 12 countries now have extra-territorial criminal laws on the subject, namely Australia, Belgium, Denmark, Finland, France, Germany, Ireland,

⁴⁸ *Children Worldwide* (Geneva), vol. 19, No. 2 (1992), p. 38.

⁴⁹ *Report of the Standing Working Party* . . . (see footnote 32 above), p. 9.

⁵⁰ See *Time International*, 21 June 1993, pp. 42 ff.

⁵¹ See E/CN.4/1993/67 (see footnote 1 above), para. 216.

New Zealand, Norway, Sweden, Switzerland and the United States of America. Sweden has also posted a police liaison officer in South-East Asia to monitor the situation, and the officer's mandate has been converted into a mandate to represent all the Nordic countries.⁵²

6. Middle East

102. Countries of the Middle East tend to deny that the problem of child sexual exploitation exists in their region. However, it is reported that some citizens of these countries travel to other regions in search of sexual services, particularly to South-East Asia. Meanwhile, the flow of migrant workers from other regions to the Middle East may involve a trade in sex, with consequences for child prostitution.

7. North America

103. Economic considerations, domestic violence and abuse, family disintegration and drug addiction are increasingly recognized as factors leading to the spread of child prostitution in North America. Organized crime is also involved. One source in the United States has noted:

[Child victims] enter prostitution either as a result of their vulnerability as street children (throwaway children or runaway children), by the actual sale of the children by parents or guardians, or through such activities by the children to make money for a variety of reasons (e.g. purchase drugs, poverty, etc.). Many of these children work for individual exploiters on the street, from houses, or via sex rings in which they are transported across state lines to provide services.⁵³

104. Similar factors lead to child prostitution in Canada. Some children have returned to the streets in pursuit of the trade after being institutionalized in state facilities; this may reflect on the poor quality of some of these facilities and the failure to offer the children viable alternatives.⁵⁴

105. Paedophile rings are also known to operate from North America. In a recent case, one American group set up a so-called children's shelter in Thailand as a front for paedophilia. The organizer was arrested and imprisoned. There are also connections between American paedophile rings and European paedophiles, particularly in regard to child pornography (see chapter III).

8. Central and South America

106. This region is generally known for its large numbers of street children, and the linkage between that environment and prostitution is strong. Child victims of prostitution are present in large numbers in, for example, Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico and Peru. A rising number of women from this region travel to the North in search of a livelihood. Here again, children may become candidates for trafficking and migration to the more developed countries.

107. Many countries in this region are now taking more interdisciplinary measures to tackle the root causes of child prostitution, including the enactment of new laws and policies, as in Brazil.⁵⁵ However, the enormous debt burden of these countries and structural adjustment programmes imposed by world financial institutions make it difficult to allocate sufficient resources to meet the needs of families and children. The structural imbalances created by this burden and the inequitable structures at the local level take their toll in terms of the root causes of child prostitution and efforts to mitigate those causes.

9. Western Pacific

108. Although the Western Pacific region is not known for having a large number of child victims of prostitution, a number of people from these countries take part in sex tourism, particularly to South-East Asia. As the Australian police have noted:

In recent months, a joint Child Exploitation Unit/Australian Customs operation uncovered a number of prominent male offenders involved in an international boys' association who were travelling to both Thailand and the Philippines and having sexual liaisons with Asian boys, the same age as those normally committed to their care in the youth organization . . . Given the low cost of labour generally in Asia, a holiday for an average Australian tourist can be very cheap if not competitive with having a holiday within Australia. Unfortunately, what has emerged in the tourist boom period is the market for children to become prostitutes and be at the whim and call of wealthy westerners.⁵⁶

109. There is now a federal law, the Crimes (Child Sex Tourism) Amendment Act, 1994, to charge Australians who indulge in such behaviour even though the crimes take place outside Australia. This innovation is in line with the policy of various countries which are extending their jurisdiction extraterritorially to encompass the misdeeds of their nationals abroad. Interestingly, the federal police have liaison teams in Thailand and the Philippines working against drug trafficking which could also be used to monitor child sexual exploitation.

10. Non-governmental initiatives

110. Many initiatives at the national level emerge from the non-governmental sector. A wide range of non-governmental organizations are operating at the field level to attenuate the root causes of child prostitution and to offer help where the problem has arisen.⁵⁷ These efforts vary from projects to help families in social development to hot lines to help children in difficulties and emergency homes to shelter the abused. If such initiatives are a drop in the ocean, they do have a significant effect in terms of advocacy and consciousness-raising.

111. Yet the work of non-governmental organizations is daunted by the huge scale of the problem and the lack of sufficient funds and resources. Where they are able to initiate projects, there is at times insufficient coordination with their non-governmental and governmental counterparts, thereby rendering their operations

⁵² Open letter from Radda Barnen and the Swedish UNICEF Committee to Nordic Ministers of Justice, 28 October 1993.

⁵³ Reply of Defence for Children International (United States) to the questionnaire circulated by the Special Rapporteur on the sale of children, child prostitution and child pornography in 1991 (see annex II).

⁵⁴ See E/CN.4/1993/67 (see footnote 1 above), para. 192.

⁵⁵ See E/CN.4/1992/55/Add.1 (see footnote 1 above).

⁵⁶ I. Hopley, *The Australian Police Role in Combating Child Prostitution in Asian Tourism* (Melbourne, Victoria Police Child Exploitation Unit, 1992), p. 6.

⁵⁷ See International Catholic Child Bureau, *The Sexual Exploitation of Children: Field Responses* (Geneva, 1991).

piecemeal rather than comprehensive. Non-governmental organizations are also faced with the question of how to sustain their efforts on a long-term basis and how to generate a pool of funds. In several settings, their initiatives are not helped by the lack of incentives from Governments, especially as the latter may be wary of them or may refuse their requests for tax exemptions or other incentives.

11. *The community*

112. The participation of the community and of children themselves has not been maximized in many countries. It is a truism that child prostitution is a community problem, and the community should be activated to help prevent the problem and provide remedies. This is evident in regard to child protection and law enforcement: the police alone will not have sufficient manpower to undertake such a task if the problem is extensive. The involvement of community leaders, including religious

leaders and politicians, is also imperative. In the United Kingdom, for example, some 200 Members of Parliament joined in a recent campaign against child sexual exploitation under the banner of Eyes Campaign against Child Exploitation.⁵⁸

113. The community itself should take vigilant action, for example by means of child-protection or "community watch" groups. Moreover, one should not underestimate the role of prostitutes and child victims of prostitution themselves. Often it is they who can provide the channels to reach other children who are caught in the underworld and thus render assistance. Indeed, ex-prostitutes and ex-child victims may become role models for others in the process of rehabilitation and adaptation to a new life.

⁵⁸ See E/CN.4/Sub.2/1993/30, paras. 12-13.

III. CHILD PORNOGRAPHY

A. Context

114.

The next step in grooming me for sexual exploitation was with photography—which I've now come to learn is a staple of many a paedophile's existence. At first he took pictures of me clothed, and since everyone knew about Alex's interest in photography, this seemed perfectly normal, and in fact, my family was delighted with those first photos. Alex coaxed me to take off my clothes. First it was my shirt . . . then he wanted me to try it without my jeans on.⁵⁹

This statement illustrates the subtle manner in which some child pornographers work.⁶⁰ At times, there is a family connection. At times, a person already familiar to the child is involved. The process itself is tantamount to child exploitation, and may lead to other forms of exploitation such as prostitution, or vice versa.

115. The term "child" is again taken to mean those under 18 years of age, as stipulated by the Convention on the Rights of the Child (see paras. 5-6 above). The following definition of child pornography may be used as a starting-point:

. . . the visual or audio depiction of a child for the sexual gratification of the user, [involving] the production, distribution and/or use of such material.⁶¹

The definition should also cover pornographic performances using children.

116. Different types of child pornography arise due to a variety of causes. The typology could comprise the following:

- parents make children appear in pornographic films;
- many runaway children become models in order to earn their living;
- children are specially procured for pornography and prostitution;
- children are sold by their parents in order, for example, to relieve their own drug and alcohol problem;
- parents (mostly the mothers) themselves work as models in pornography and introduce their children into the industry.⁶²

⁵⁹ Statement to the Permanent Subcommittee on Investigation: Hearing to Probe the Link between Child Pornography and Molestation, United States (15 February 1985).

⁶⁰ For general reading, see *Child Prostitution, Trafficking and Pornography* (see footnote 20 (a) above); International Catholic Child Bureau, *Children and Pornography* (Geneva, 1988); and *Report of the International Symposium on Traffic in Human Beings* (see footnote 20 (b) above).

⁶¹ Definition contained in the questionnaire circulated by the Special Rapporteur on the sale of children, child prostitution and child pornography in 1991 (see annex II).

⁶² Buys, op. cit. (footnote 1 (d) above), p. 17.

117. The sexual exploitation of children and traffic in child pornography are closely related, and there are different dimensions ranging from the small-scale to the large-scale:

(a) Solo sex rings: an adult gathers children around him and sexually abuses them either as a group or singly;

(b) Sex rings in which children are swapped between adults who are acquainted with each other and exchange children as well as pornographic material;

(c) Syndicated rings: well structured and for which children are recruited. Pornography is produced and direct sexual services are provided for an extensive network of customers.⁶³

118. As indicated above, the root causes of child pornography are both socio-economic and cultural, both criminal and medical. Economic needs, interlinked with the decline of the family, may lead to sexual exploitation of children. The causes of child prostitution may ultimately become the causes of child pornography, and vice versa. On the other hand, there are criminal elements at work, seeking to exploit the child. At times, it is organized crime; at times, it is individuals wishing to abuse the child.

119. Interestingly, not enough has been said about the medical implications of the process. The psychological distortions of the exploiter have not been addressed in detail in the materials available to this study. Is it a criminal problem or a psychological problem?

120. The problem has become more intractable due to the advent of new technology and the potential use of computers, videos and telephone networks as means of conveying pornography. In this regard, the law may be too slow to keep track of technological developments.

121. The issue is rendered more complex due to the debate concerning the standard of proof for pornography. In some jurisdictions, the test is whether the material concerned is "obscene". Does the latter standard imply material that is intended to deprave or corrupt, and if so, how subjective or objective is the test? Others have abandoned this test due to difficulties of proof. A related question is whether the law should cover those who use or possess pornographic material, as well as those who manufacture or distribute it. The new trend is to criminalize possessors, as well as manufacturers and distributors. While it is claimed in some quarters that this may infringe upon freedom of expression, it is submitted that protection of children from exploitation through pornography is not in conflict with freedom of expression, child pornography itself being harmful to the child and a

⁶³ Ibid., p. 18.

breach of his or her rights. Moreover, if one broadens the definition of child pornography to cover pornographic performances, the often offensive and lewd displays cannot be classified under freedom of expression, especially as people are profiteering from the child.

122. An additional question is whether material is actually produced in a certain country or merely distributed there. Matters become more complicated because of the thin line between individual/amateur productions of pornographic material and commercialized/professional activities, especially as the former may ultimately lead to the latter. As noted by one source:

... The child pornography which is found on national and international markets has its source in both amateur and professional circles, and it is by no means clear that there is a vast and profitable industry involved. Nevertheless it is clear that the professional film makers who are involved also produce "soft" pornography and sometimes more reputable products ...⁶⁴

123. Transnationalization of the problem adds a new dimension. Although many pornographic materials are produced in the West, children from developing countries are used for this purpose. Likewise, those on the "demand" side may travel to developing countries in search of candidates for exploitation.

B. International developments

124. International law on the subject of pornography dates back to the early part of this century. The International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications was adopted in 1923 and amended in 1947.⁶⁵ Basically, it requires States parties to "take all measures to discover, prosecute and punish" (art. 1) those who produce, distribute or exhibit any obscene material. The Convention suffers from poor implementation at the local level. It also fails to address specifically the issue of child pornography, and it is unclear on the position of the person who possesses child pornography.

125. Further inspiration for action came with the 1959 Declaration of the Rights of the Child,⁶⁶ which provides (Principle 2):

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity...

and (Principle 9):

The child shall be protected against all forms of neglect, cruelty and exploitation...

... he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

⁶⁴ The Anti-Slavery Society for the Protection of Human Rights, *Children in Especially Difficult Circumstances: The Sexual Exploitation of Children—Prostitution and Pornography* (London, [n.d.], p. 51).

⁶⁵ For the text, as amended by the Protocol of 12 November 1947, see United Nations, *Treaty Series*, vol. 46, p. 201.

⁶⁶ See footnote 27 above.

126. More recently, the Convention on the Rights of the Child (see annex I) advocates an interdisciplinary approach to the problem. Under article 19, paragraph 1, signatories are required to

take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

More specifically, article 34 calls for all appropriate national, bilateral and multilateral measures to be taken to prevent: "(c) The exploitative use of children in pornographic performances and materials".

127. The "soft law" approach referred to earlier (see paras. 66 and 71 ff. above) can be mentioned here in relation to the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography (see annex III) adopted by the Commission on Human Rights in 1992.⁶⁷ The Programme of Action emphasizes the need for more information, education, legal measures and law enforcement, social measures and development assistance, rehabilitation and reintegration, and international coordination. On the issue of child pornography, certain measures are underlined:

52. Law enforcement agencies, and social and other services should place a higher priority on the investigation of child pornography in order to prevent and eliminate any exploitation of children.

53. States that have not yet done so are urged to enact legislation making it a crime to produce, distribute or possess pornographic material involving children.

54. Where required, new legislation and penalties should be introduced for the mass media which broadcast or publish material threatening the psychic or moral integrity of children or containing unhealthy or pornographic descriptions and to prevent new technology being used to produce pornography, including video films and pornographic computer games.

55. States should be encouraged to protect children from exposure to adult pornography, especially through new forms of technology, by adopting suitable legislation and appropriate measures of control.

56. States should encourage the mass media and the journalistic profession to adopt codes of practice governing the publication of material, including advertising, with pornographic overtones, and should remind them of their responsibility in influencing public attitudes.

128. The trend is to criminalize possession of child pornography as well as to tackle new forms of technology. The question may also be explored more forcefully at the bilateral and regional levels. Exchange of information on paedophiles and criminal networks may help to track transfrontier cases of pornography more effectively. This should be coupled with more incentives for cooperation between law enforcement personnel—for example, through Interpol—and special police squads, with more women members being recruited than are found now.

C. National developments

129. The right of the child not to be exploited for pornography is protected to some extent at the national level. Legislation varies in content and impact. Many

⁶⁷ See footnote 16 above.

countries do not have specific laws on child pornography, but various laws on "morality" and "public health and order", including criminal or penal codes, may be used to protect children in such situations. The approach varies between laws which punish customers/possessors, as well as manufacturers and distributors, and those which do not punish customers/possessors. However, the global trend is to criminalize possession of child pornography. At least 13 countries have now introduced laws to this effect, namely Austria, Belgium, Canada, Denmark, Estonia, Finland, France, Germany, New Zealand, Norway, Thailand, the United Kingdom of Great Britain and Northern Ireland and the United States of America. A related concern is the grey area involving the age thresholds for defining a child and for the consent factor in child sexual exploitation.

1. North America

130. This region poses a particular challenge. The largest market for child pornography seems to be that in the United States: it is a multimillion dollar business. As noted by one source:

Child pornography is produced largely by individuals for personal use and is shared with acquaintances who share similar interests. It is also produced for sale and distribution here and abroad in photo, film and video form. Much of this is apparently distributed among members of paedophile support organisations and in more informal networks. Multi-million dollar US organisations have been identified and subject to arrest in the US. Several years ago, the infamous "Black Kathy" organisation resulted in several arrests. This typical group made millions of dollars kept in German banks by producing and distributing child pornography. Most such US-organised child pornography operations are international in scope... [It is] not possible to discuss child pornography in isolation from child prostitution. Eighty to 90 per cent of child prostitutes have been victims of child pornographers.⁶⁸

131. According to a recent report, since 1984 the United States Postal Service has prosecuted some 2,000 individuals on this issue, and the police sometimes use undercover advertisements to trap culprits.⁶⁹ In 1993, at an Interpol meeting, difficulties encountered by United States police as a consequence of collusion between organizers of sex tourism, the producers of pornographic shows and the publishers of certain types of magazines were voiced.⁷⁰

132. The law in the United States has undergone substantial changes, with a shift away from the test of whether material is obscene. As a result of case-law and the Attorney General's Commission on Pornography:

Sale or distribution of any photographic depiction of a real child engaged in sexual activity was made unlawful, regardless of whether the photograph, or magazine, or film was or could be determined to be legally obscene.⁷¹

⁶⁸ Reply of Defence for Children International (United States) to the questionnaire circulated by the Special Rapporteur on the sale of children, child prostitution and child pornography in 1991 (see annex II).

⁶⁹ Interpol, *Report of the 1st International Symposium on Offences against Children and Young Persons* (Lyon, 1992), p. 3.

⁷⁰ See *Report of the Standing Working Party...* (see footnote 32 above), p. 9.

⁷¹ *Attorney General's Commission on Pornography: Final Report* (Washington, D.C., United States Department of Justice, 1986), pp. 413-414.

Virtually all state laws in the United States now prohibit the production and distribution of child pornography irrespective of whether it is obscene. Possession of such material is also a criminal offence. However, the control of trade in child pornography across state frontiers still poses some problems. Federal laws now also punish the use of computers for pornographic purposes. Verbal exchanges of pornographic statements are not punishable, but they may be punishable if there is foul or obscene language; pornographic communications give rise to accountability if they are conveyed by mail or computers.

133. In Canada, many pornographic materials come from the United States, and vice versa. There are also reports of locally printed child pornography and nude dances. It is the Criminal Code which offers protection to children, criminalizing mere possession of child pornography. There is also a test used by the courts to determine whether material is obscene, namely whether it exhibits "undue exploitation of sex".

134. A key catalyst is the role of customs officials, who have to track postal communications while applying the Criminal Code as necessary. From 1986 to 1990 there were some 39,000 enforcement actions by the Canadian authorities, of which 1.3 per cent concerned child pornography. The Government is now considering the possibility of enacting a more specific law on child pornography.

2. Central and South America

135. Reports of child pornography in Central and South America are rarer than in the North. Sporadic cases are linked with family-based exploitation and with tourism. Some countries have consolidated their laws against such child exploitation in recent years, an example being Brazil's 1990 Statute of the Child and Adolescent.⁷²

3. Europe

136. Europe is a large market for child pornography. In Germany, the network of child pornography is extensive. As noted by a German parliamentarian:

A particularly abhorrent type of sex exploitation has developed in recent years in the shape of child pornography videos. A large proportion of these videos are amateur films which are often produced by fathers with their own children or by relatives or other close acquaintances. These films are swapped with other child pornography fiends. Estimates in the Federal Republic of Germany indicate that a video swap network exists with about 30,000 so-called "collectors". The videos are also produced commercially. Here, too, it can happen that parents make their children available for such films for money. Often, however, these films are shot in Germany or Southern countries using children from the third world... Child pornography is a lucrative business in which millions change hands. In the Federal Republic of Germany alone the annual turnover is estimated to amount to more than 40 million DM.⁷³

There is now a law to punish possession of child pornography.

⁷² See E/CN.4/1992/55/Add.1 (see footnote 1 above), paras. 13 and 40-43.

⁷³ I. Walz, "We demanded political action", in *Children in Prostitution...* (see footnote 42 above), p. 16.

137. In 1992, the Special Rapporteur on the sale of children, child prostitution and child pornography communicated with the German Government concerning the periodical *Spartacus*—published in Germany—which contained passages allegedly attempting openly to facilitate paedophilia-centred sex tourism, child prostitution and child pornography. The Government replied with a denial to the communication, as follows (excerpt):

... the 7th edition of the "Spartacus International Gay Guide" was the subject of investigations that, however, led to abandoning court proceedings under article 170, paragraph 2, of the Code of Criminal Procedure for the reason that the distribution of this publication did not constitute a criminal offence.

The 21st edition of the *Spartacus Gay Guide* for 1991/2 now being published has been reviewed by the district attorney of the state court of Berlin with the same result. In particular there has been no factual evidence pointing to paedophilia-centred sexual tourism, child prostitution or child pornography.⁷⁴

138. In the United Kingdom, a recent police comment on child pornography in the country indicated that the process of paedophilia usually starts with the collection of "soft" erotic materials and then moves on to hard-core pornography.⁷⁵ At times there may be a link with black magic. The national legal position is clear: there are penalties for trafficking child pornography as well as for possession of it.

139. A recent example of child pornography in France involves the *Minitel* telephone system already referred to in the context of child prostitution (see para. 97 above). This network has been used to offer the sexual services of children. The situation is regulated by a 1990 law which strikes a balance between freedom of communication and children's rights, and there is a distinction between erotica, which is permissible, and pornography, which is not. Legal action can be taken in the case of outrage to public morals.

140. The Netherlands is sometimes cited as having a market for child pornography. There is some evidence to suggest that child pornography is not produced on a commercial scale in the Netherlands, but that does not rule out the possibility of individual productions which may ultimately become commercialized. There is also a problem concerning the publications of "nudist camps", showing children posing nude, which are still found on the shelves of adult pornography shops. Moreover, the liability of the customer in possession of the material remains equivocal.

141. Nordic countries are also known as a market for the production and distribution of child pornography. Norway has led the way in criminalizing possession of child pornography, and there has been a call for Denmark, Sweden and Finland to follow suit.

4. Asia and Africa

142. There are reports of an increase in child pornography in the form of videos in Asia and Africa. There is often a link with sex tourism: paedophiles come to

these regions to make films of children for later distribution in their countries of origin. A recent report indicates that, in Taiwan, the rise in child pornography videos is due to imports from Japan.⁷⁶ Pornographic performances using children are also reported in various tourist destinations, for example Thailand.

5. Australia

143. Child pornography in Australia is found in books, films and videotapes.⁷⁷ There is a joint role of the federal system and state jurisdictions in preventing and eliminating it. The former exercises its powers to scrutinize incoming material by means of the 1901 Customs Act and Customs (Prohibited Import) Regulations and the 1942 Broadcasting Act. State laws complement this federal legislation. Generally, state laws protect those under 16 years of age from exploitation through pornography. However, not all states prohibit possession of child pornography. An additional loophole is the lack of mandatory reporting by film processors when they see child pornography. According to one source:

... Investigators rely solely on the cooperation of film processors to report cases of child pornography. It is obvious that, without legislation, unscrupulous film processors will continue to develop child pornography and many cases of child sexual assault either in Australia or overseas will go unreported.⁷⁸

144. The transnational impact of child sexual exploitation was noted earlier in relation to Australian paedophiles operating abroad (see para. 108 above). A new law, the Crimes (Child Sex Tourism) Amendment Act 1994, extends Australian criminal law extraterritorially to cover such cases. More reassuring still is that, in June 1992, all Australian State Police Ministers agreed to a total prohibition on the possession of child pornography, whether for sale, display or personal use. The police have also established a national database to record paedophile activity, including any connections with organized crime, and the various jurisdictions are being invited to promote information exchange.

6. Summary

145. The circulation of child pornography is most widespread in developed countries, particularly in the West. However, traffic in children from developing countries used for pornographic purposes persists and requires strong countermeasures. Much of the problem is linked with sex tourism and prostitution in developing countries. The increased transnationalization of the problem indicates that the global phenomenon calls for more cooperative efforts between States and between their police forces.

146. The extension of criminal jurisdiction extraterritorially would encompass the misdeeds of a country's nationals perpetrated against children abroad. Prosecutions will not be easy, since extraterritoriality raises issues of both substance and procedure. Usually, to be punishable, an act must be a crime in both the country of the offence and the country of origin of the perpetrator

⁷⁴ See E/CN.4/1993/67 (see footnote 1 above), para. 218.

⁷⁵ Report of the 1st International Symposium on Offences... (see footnote 69 above), pp. 5-6.

⁷⁶ *Children in Prostitution*... (see footnote 42 above), p. 58.

⁷⁷ See E/CN.4/1993/67/Add. 1 (see footnote 1 above).

⁷⁸ Hopley, op. cit. (footnote 56 above).

("double criminality"). However, the different age thresholds in different countries for consent to a sexual act may result in substantive obstacles. Furthermore, the procedural problems involved in transmitting a child's evidence across frontiers to be used in court could be serious. Videotaping a child's testimony, or satellite screening, could help in this regard.

147. Although laws touching on the subject of child pornography, either directly or indirectly, do exist, enforcement is again an issue. Sometimes law enforcement is poor, with a situation paralleling the context of child prostitution, involving corruption and a lack of committed or adequate personnel. In a federal State, the test of implementation will be at the individual state level, and the role of municipalities and local communities is important in this regard. However, there is still a loophole in many systems in that possession of child pornography is not illegal. Criminalization of such possession is advocated by this study, and is endorsed by the following observation by the Attorney General of the United States:

The prohibition of the mere possession of child pornography is a necessary incident to drying up the market.⁷⁹

Here again, however, there remains the problem of the age of consent, which is often set at a level lower than the international criterion for defining a child. This may result in inaction by law enforcement personnel when the pornography in question concerns those who are under 18 but above the local age of consent.

148. In some countries, the test of whether material is pornographic revolves around notions such as obscenity and indecency in law. There is now a shift away from these notions. One recommendation of note is to sim-

plify matters by opting for the following definition of child pornography:

—Portrayal of children in sexual relations with an adult or another child or being the viewer of such act.

—Portrayal of nude children or children with uncovered genitalia, in sexual positions or poses that would suggest intercourse or other sexually related activities.

—Inclusion of children in adult pornographic publications, whether their pictures be sexually explicit or not.⁸⁰

149. In many countries, legislation and policy do not adequately address the question of modern technology, such as computers, telephones, videos, etc., which may be the instruments of crime. In future, it will, for example, be very simple to convey pornography across frontiers via computers. The traditional approach of using customs officials to open parcels and police raids on shops will no longer be sufficient. Yet, ironically, the burgeoning laws that impose increasing restrictions on release of data may also hinder the tracing of culprits if applied too strictly.

150. From an interdisciplinary point of view, it should be noted that in many countries there is inadequate sex education. This may lead to misunderstanding concerning the problem of child pornography and lack of empathy for the victims. Education and social mobilization are thus keys to prevention of the problem and responsive rehabilitation of the victims. Moreover, while criminal sanctions are to be imposed on the abuser, one should also look to the psycho-medical side of the person in question. If the person has psychological problems, criminal sanctions will not necessarily lead to changed behaviour and must be coupled with psycho-medical assistance.

⁷⁹ *Attorney General's Commission on Pornography*... (see footnote 71 above), p. 6.

⁸⁰ *Child Prostitution, Trafficking and Pornography* (see footnote 20 (a) above), p. 32.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

151. This study has endeavoured to examine the issue of sexual exploitation and the rights of the child with particular emphasis on two main problem areas: child prostitution and child pornography.

152. The general impression is that sexual exploitation of children is pervasive and extensive. It is global by nature and affects both developing and developed countries. The advent of the Convention on the Rights of the Child (see annex I) and other recent international instruments reinforces the call for accelerated action at both national and international levels to tackle the problem.

153. The response of the law to the problem is one of the major concerns of the day. In all countries, there already exist laws which can be used to protect children, to a greater or lesser extent, from sexual exploitation. However, law enforcement leaves much to be desired. Moreover, the laws which exist tend to be curative rather than preventive; they need to be targeted more to the root causes addressed earlier in this study (see chap. I, sect. B). Much more should be done to protect children, to prevent them from becoming victims, and to curb both the demand and supply factors which profit from the exploitation.

154. While good laws and effective law enforcement are key short-term measures to alleviate the plight of children in this area, they are not sufficient and must be viewed in the light of the need for interdisciplinary strategies with long-term impact. More emphasis should be placed on sustained strategies to tackle the root causes, such as poverty, family breakdown, supply and demand, and sociocultural discrepancies. These strategies have to be operationalized by international and national plans and programmes with concomitant budgets and targets within specific time-frames; they will require both political will and social will. In other words, more is required in terms of anti-poverty measures, assistance for needy families and children, community mobilization against gender discrimination, elimination of systematic criminality, and promotion of a development scenario that is balanced and people-centred.

155. The catalysts in the process are multifarious: governmental and non-governmental, community and individual, parent and child. At the international level, the issue of child sexual exploitation should not be relegated simply to those agencies which see themselves as dealing with human rights and children's rights. Rather, children's rights and the promotion of action to counter child sexual exploitation are matters for all agencies, and this

perspective should be incorporated into their work. Of no less importance is the role of international aid agencies, such as UNDP and bilateral agencies, and financial institutions, such as the World Bank and IMF, which have much to do with the debt burden of many developing countries and the financial aid which might be used to help restructure the development framework.

156. On another front, the role of Interpol and other law enforcement personnel, including the judiciary and immigration officials, is essential for addressing the transfrontier aspects of child sexual exploitation; their cooperation across boundaries needs to be maximized precisely because traffic in children is transnational and often only marginally visible. Similarly, the World Tourism Organization has a key role in promoting law-abidingness among tourists who could otherwise become exploiters of children.

157. At the national level, one is struck by the need to broaden the range of catalysts which could help to protect children. Governments can never tackle such problems alone, precisely because these are community problems requiring community vigilance and participation. While one should call for more effective performance by government agencies, the role of non-governmental organizations and the community sector, including children themselves, is equally important. Their efforts should be harnessed as part of the social mobilization to tackle the root causes and effects of child sexual exploitation and provide the necessary remedies, while facilitating the rehabilitation process for the victims. Parents' organizations, religious groups, community development organizations, children's groups, medical and lawyers' associations, and the mass media are some of the non-governmental entities that can help. Their initiatives also need government recognition, and incentives for their contribution to social development should be provided in such areas as tax exemptions and other facilities.

158. One is also struck by the inadequate participation of the service industry, the business sector and customers/consumers in preventing the exploitation. This negligence is to an extent due to the fact that child sexual exploitation is part of a "business" and that there are those in the business sector who would prefer to turn a blind eye to the problem. While "sticks" may be needed to deal with the culprits, the "carrots" which could encourage a change in behaviour are also worth exploring. Industries should be called upon to exert peer-group pressure on those members of the sector who would otherwise abuse the process, and they should be given incentives to exert such pressure. Protection of children should be an integral part of "social investment promo-

tion"—an integral part of innovative industrial and business privileges to be accorded to industries. The latter should also have their own code of conduct to protect children from sexual exploitation as part of the pressure among peers. Indeed, the development of the business sector should be linked with the need to encourage industries to change their ways and to incorporate "human development" as a basic stricture.

159. In the same way, consciousness-raising about the problem should be intensified among customers/consumers so as to nurture an ethic and a habit whereby sexual exploitation of children would be shunned. Consumer responsibility should be advocated more strongly, and the consumer sector should be called upon to pressure its members to act responsibly.

160. It is because the menace of child sexual exploitation lurks in the background of all societies that it needs to be discussed more openly, in the classroom and beyond. Yet there is a tendency to gloss over the problem or prevent it from being raised in the educational process, as if it did not exist. If the community is to help prevent and cure the problem, children's awareness and participation in such efforts from an early age are crucial.

B. Recommendations

I. *General: Sexual exploitation and the rights of the child*

1. States should accede to all the relevant international human rights instruments for protection of children and implement them effectively. In particular, they should become parties to the Convention on the Rights of the Child (see annex I) and enforce it fully at the national and local levels. The reform of legislation, policies and practices is required to satisfy the minimum standards set by the Convention. There should also be a national focal point to gather information on sexual exploitation of children and child rights—including an improved database—and to mobilize change on behalf of the child. The focal point should also interlink with all relevant national and international agencies.

2. States and national and international organizations should bear in mind the strategies of prevention, protection and rehabilitation in countering child sexual exploitation. All three strategies involve short-term and long-term planning, implementation and evaluation. Of the three strategies, the most effective, in the short term, is that of protection of child rights; adequate laws, policies and enforcement can have instant impact on the problem, given the necessary political and social will. This is all the more important because a component of the problem is criminality, and it is only through effective law enforcement that this will be reduced in the short term. Realizable goals depend on close coordination between the national and local levels, including federal and state links, as well as on adequate budgetary allocations.

3. A key priority for action is the area of prevention. This is often dependent on effective anti-poverty strat-

egies, access to an improved information flow, education, community consciousness-raising and mobilization, satisfaction of basic needs, occupational opportunities, alternative forms of employment, and reallocations from military and other budgets to child-protection budgets.

4. Since many forms of child sexual exploitation are related to family decline and disintegration, measures to bolster the family system are desirable. These may include social security, social assistance facilities and family/child subsidies.

5. Since an essential root cause of child sexual exploitation is criminality, anti-crime measures should be broadened and community participation in precautions to protect children through "community watch" programmes (e.g. local child-protection committees) should be maximized.

6. Protection of children from sexual exploitation depends on effective laws and policies and their implementation at the national and local levels. Since all countries already have laws which can be used to protect children—for example, the criminal law—these should be implemented in a more committed manner. Where there are legislative loopholes, States should consider the possibility of adopting specific laws against child sexual exploitation, including the sale and trafficking of children. The proceeds of those who exploit children should be confiscated and used to help the victims.

7. In many parts of the world, the quality of the police force and other law enforcement personnel needs to be improved. Low pay and insufficient training in child rights often result in poor performance and corruption. The better elements of these authorities need incentives for quality performance; the worst elements need to be identified and penalized for being part of the criminal system.

8. The responsibility of the customer/consumer in child sexual exploitation needs to be highlighted. This implies, for example, incriminating customers of child victims of sexual exploitation.

9. In view of the wrongdoings of those who go abroad to commit crimes against children, particularly those engaging in sex tourism, the criminal jurisdiction of the countries of origin should be extended to cover the acts of their nationals perpetrated in other countries.

10. Improved links between Interpol and national police are required to identify transnational networks which exploit children. The police in all countries should have a special policy and specially trained units to combat child sexual exploitation.

11. Community groups, including children's and youth groups, should be promoted as part of a "community watch" programme and a decentralized, participatory approach to forewarn of the violations which may take place, as well as to identify and report abuse and exploitation of children. Access to exploited children should be promoted by means of telephone hot lines and other proactive methods.

12. States should, through bilateral and other means, encourage exchange programmes among law

enforcement personnel as well as related training programmes, to deal with transnational trafficking in children. This may, for example, entail stationing police liaison officers in other countries to track the behaviour of their own nationals where there is a threat to children. Such action can be facilitated by increased exchange of information, such as lists of known paedophiles and crime-linked data.

13. To deal with the transnational impact of child sexual exploitation, extradition agreements, mutual assistance arrangements or less formal links can be expanded to facilitate the transfer of alleged criminals to face charges in the country where the exploitation has taken place.

14. Remedial action should be taken to help children who are abused and exploited. This may include judicial remedies, such as prosecution of exploiters, coupled with legal aid and assistance and/or sociomedical remedies such as hospices, counselling and other support facilities.

15. Particular attention should be paid to child trafficking between countries. This entails proper safeguards for children to return to their countries of origin. Bilateral and other links to ensure such return in safety need to be evaluated by independent monitoring.

16. Increased facilities should be provided to help those with health problems, including HIV/AIDS. These may include medical and community facilities to help children and their families, as well as measures to protect them against discrimination and other harm.

17. The psychological pattern of paedophiles needs to be researched more deeply. This may necessitate medical and psychiatric facilities for those of aberrant behaviour, rather than criminal sanctions *per se*.

II. *Specific: Child prostitution and child pornography*

18. An integrated and interdisciplinary approach is advocated to tackle the problem of child prostitution and child pornography, bearing in mind the Convention on the Rights of the Child (see annex I) and the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography (see annex III). National laws may need to be reformed to extend jurisdiction to encompass the misdeeds of a country's nationals against children in other countries.

19. Assistance is needed for both families and children so as to lift them out of the rut of poverty which drives children into prostitution or pushes parents to sell their children. Monitoring of parental behaviour, supervision by social service personnel, occupational facilities, family subsidies and educational access are all required to encourage changes of conduct on the part of parents and to protect children.

20. Where they do not already exist, there should be laws and policies to criminalize the conduct of customers and intermediaries in the case of child prostitution. The age of consent should not be too low, bearing in mind that the Convention on the Rights of the Child (art. 1) establishes the general definition of a "child" as

a person under eighteen. Peer-group pressure among members of the private sector, such as through a business code of conduct on child protection, may also be explored to act against those who would exploit children.

21. Migrant child victims of prostitution should be protected from harm, whether or not they have entered a country illegally. Help should be given to provide education and alternative occupations. The safety and human rights of these children need to be ensured, with proper monitoring, if they are to be sent back to their country of origin.

22. No discrimination or inhumane action should occur against child victims of prostitution with HIV/AIDS. Support facilities, including subsidies, medical care and accommodation, should be provided.

23. More attention should be paid to transnational trafficking in children for prostitution and pornography, and to its links with criminal networks. Bilateral and other forms of cross-frontier cooperation, with the help of Interpol, are desirable in order to apprehend the culprits.

24. Sex tourism should be discouraged more strongly, and the service sector, including tourist agencies, should act more responsibly on this issue. The World Tourism Organization's role has yet to be maximized in this regard; it should disseminate and promote the implementation of its Tourism Bill of Rights and Tourist Code (see para. 76 above) to help curb child prostitution and child pornography.

25. Incentives, including tax exemptions, should be accorded to non-governmental organizations and community initiatives in relation to programmes servicing children and their families.

26. The exchange of lists of paedophiles between different countries should help to prevent repetition of offences by the same person and should be encouraged.

27. Traditions which perpetuate child prostitution should be eradicated, not only through legislative enactments, but also through a broadening of the educational base and through consciousness-raising. At times, financial inducements may also be used to nurture constructive changes of behaviour to help the child.

28. The issue of child prostitution should be raised more openly in the classroom so as to forewarn children of the dangers. This is particularly important at the primary level of education, as many children do not continue their education to the secondary level, for lack of funds or other reasons, but enter the labour market under the impending threat of exploitation. The mass media should be used more widely to mobilize the community against child sexual exploitation, and this can be part of a community-based or family-based educational system.

29. Laws should be amended to address the advent of new technology which could be used for child pornography. They may also be extended to cover crimes committed by the nationals of a country against children in other countries.

30. Customer responsibility should be promoted. This would mean incriminating those who possess child pornography, in addition to those who produce and distribute it. There should be mandatory reporting by film processors when they encounter child pornography.

31. Medical as well as legal remedies should be applied to cases of child pornography. Counselling and rehabilitation may be needed for both the abused and the abuser.

32. Police, customs officials and postal officials need to coordinate their efforts more closely through bilateral and other arrangements to curb the circulation of pornographic material.

ANNEXES

Annex I

CONVENTION ON THE RIGHTS OF THE CHILD^a

PREAMBLE

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

^a Adopted by the General Assembly by its resolution 44/25 of 20 November 1989, entered into force on 2 September 1990, in accordance with article 49.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances,

personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, es-

pecially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international cooperation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, *inter alia*, foster placement, *kafalah* of Islamic law, adoption or, if necessary, placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that intercountry adoption may be considered as an alternative means of the child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by intercountry adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in intercountry adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, cooperation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations cooperating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d) To ensure appropriate prenatal and post-natal health care for mothers;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international cooperation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present art-

icle. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years

but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

- (i) To be presumed innocent until proven guilty according to law;
- (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly that it request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still

being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Annex II

QUESTIONNAIRE RELATING TO THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY^a

Interpretation of certain terms used in the questionnaire

For the purpose of this questionnaire, the term:

"Child" is defined by the United Nations Convention on the Rights of the Child 1990 as meaning "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier";

"Sale of children" should be seen as a flexible term due to the different notions of "sale" and "contracts" in existing municipal systems, noting a definition derived from the 1956 Supplementary Convention on the Abolition of Slavery, as follows: "The transfer of a child from one party (including biological parents, guardians and institutions) to another, for whatever purpose, in exchange for financial or other reward or compensation";

"Child prostitution" refers to the sexual exploitation of a child for remuneration in cash or in kind, usually but not always organized by an intermediary (parent, family member, procurer, teacher, etc.);

"Child pornography" refers to the visual or audio depiction of a child for the sexual gratification of the user, and involves the production, distribution and/or use of such material.

Where those replying to this questionnaire wish to qualify or adjust the interpretation of the words indicated above, kindly indicate accordingly (under Question I).

Question I

1. If you disagree with the interpretations of the words "child", "sale of children", "child prostitution" and "child pornography" given above, please provide your reasons, details and preferred interpretations.

A. International law and cooperation

Question II

1. Is your country a party to the multilateral instruments concerning the prevention and elimination of the sale of children (e.g. the 1956 Supplementary Convention on the Abolition of Slavery, the 1990 Convention on the Rights of the Child, and various instruments of the International Labour Organisation)?

2. Is your country a party to the multilateral instruments concerning the prevention and elimination of child prostitution (e.g. the Convention on the Rights of the Child and the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others)?

3. Is your country a party to the multilateral instruments concerning the prevention and elimination of child pornography (e.g. the Convention on the Rights of the Child and the 1923 International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications)?

4. How effective is the implementation of these instruments at the local level? Please assess strengths and weaknesses.

5. To what extent is the prevention and elimination of the sale of children, child prostitution and child pornography dependent upon international development strategies and agencies? How should more effective collaboration and interaction be promoted?

Question III

1. Does your country have any bilateral and regional arrangements with other countries to prevent and eliminate the sale of children in relation to adoption? Please give examples.

2. Does your country have any bilateral and regional arrangements with other countries to prevent and eliminate the sale of children in relation to child labour? Please give examples.

3. Does your country have any bilateral and regional arrangements with other countries to prevent and eliminate the sale of children in relation to organ transplantation? Please give examples.

4. Does your country have any bilateral and regional arrangements with other countries to prevent and eliminate child prostitution? Please give examples.

5. Does your country have any bilateral and regional arrangements with other countries to prevent and eliminate child pornography? Please give examples.

B. Sale of children

Question IV

1. The sale of children is mainly carried out for the purposes of:

- (a) adoption;
- (b) child labour (including sexual exploitation);
- (c) organ transplantation.

To what extent, and in what ways and forms, do these violations of children's rights exist in your country? Please describe.

2. What are the root causes of the sale of children in your country, if it exists?

3. What obstacles or problems hamper the prevention and elimination of the sale of children, in particular concerning adoption, child labour and organ transplantation?

4. What measures and action (e.g. national children's policies; projects to help children and their families; incentives for better law enforcement; community watch; participation of governmental institutions, non-governmental organizations and the private sector, etc.) have been or are being taken to prevent and eliminate the sale of children? Please give examples and assess strengths and weaknesses.

Question V

1. What national laws exist to prevent and eliminate the sale of children in relation to adoption? Please give name of law, date and reference; attach texts if possible.

2. How effective are such laws and what are the sanctions (e.g. maximum/minimum prison sentences, fines, etc.)? Please assess strengths and weaknesses.

3. What national laws exist to prevent and eliminate the sale of children in relation to child labour? Please give name of law, date and reference; attach texts if possible.

4. How effective are such laws and what are the sanctions? Please assess strengths and weaknesses.

5. What national laws exist to prevent and eliminate the sale of children in relation to organ transplantation? Please give name of law, date and reference; attach texts if possible.

6. How effective are such laws and what are the sanctions? Please assess strengths and weaknesses.

^a Circulated to Governments and the non-governmental sector in 1991 by the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/1992/55, annex I).

7. Have there been any prosecutions where the sale of children relates to adoption, child labour and/or organ transplants? Please give details and statistics.

Question VI

1. Do national development plans, national youth/child policies or other national programmes explicitly mention specific targets and action to prevent and eliminate the sale of children in relation to adoption?

2. How are they implemented? Please assess strengths and weaknesses.

3. Please give examples of measures and action (e.g. programmes, projects) to implement these plans.

4. How much budget is available for these measures and action? Is it sufficient?

5. Who are the counterparts/partners in the implementation of these plans (e.g. governmental, non-governmental, community, children, etc.)?

6. How are these plans evaluated? Who evaluates, and is there follow-up action?

7. What other resources and measures are required to make these plans effective in practice?

Question VII

1. Do national development plans, national youth/child policies or other national programmes explicitly mention specific targets and action to prevent and eliminate the sale of children in relation to child labour?

2. How are they implemented? Please assess strengths and weaknesses.

3. Please give examples of measures and action (e.g. programmes, projects) to implement these plans.

4. How much budget is available for these measures and action? Is it sufficient?

5. Who are the counterparts/partners in the implementation of these plans (e.g. governmental, non-governmental, community, children, etc.)?

6. How are these plans evaluated? Who evaluates, and is there follow-up action?

7. What other resources and measures are required to make these plans effective in practice?

Question VIII

1. Do national development plans, national youth/child policies or other national programmes explicitly mention specific targets and action to prevent and eliminate the sale of children in relation to organ transplantation?

2. How are they implemented? Please assess strengths and weaknesses.

3. Please give examples of measures and action (e.g. programmes, projects) to implement these plans.

4. How much budget is available for these measures and action? Is it sufficient?

5. Who are the counterparts/partners in the implementation of these plans (e.g. governmental, non-governmental, community, children, etc.)?

6. How are these plans evaluated? Who evaluates, and is there follow-up action?

7. What other resources and measures are required to make these plans effective in practice?

C. Child prostitution

Question IX

1. To what extent, and in what ways and forms, does child prostitution exist in your country? Please describe.

2. What are the root causes of child prostitution in your country, if it exists?

3. What obstacles or problems hamper the prevention and elimination of child prostitution?

4. What measures and action have been or are being taken to prevent and eliminate child prostitution? Please give examples and assess strengths and weaknesses.

5. What national laws exist to prevent and eliminate child prostitution? Under the law in your country, is it an offence for an adult to have sexual intercourse with a child? Until what age is the child protected? Please give name of law, date and reference; attach texts if possible.

6. How effective are such laws, and what are the sanctions? Is tourism regarded as an aggravating factor in the sexual exploitation of children? Please assess strengths and weaknesses.

7. Have there been any prosecutions on child prostitution? Please give details and statistics.

Question X

1. Do national development plans, national youth/child policies or other national programmes explicitly mention specific targets and action to prevent and eliminate child prostitution?

2. How are they implemented? Please assess strengths and weaknesses.

3. Please give examples of measures and action (e.g. programmes, projects) to implement these plans.

4. How much budget is available for these measures and action? Is it sufficient?

5. Who are the counterparts/partners in the implementation of these plans (e.g. governmental, non-governmental, community, children, etc.)?

6. How are these plans evaluated? Who evaluates, and is there follow-up action?

7. What other resources and measures are required to make these plans effective in practice?

D. Child pornography

Question XI

1. To what extent, and in what ways and forms, is child pornography produced, distributed or used in your country? Please describe.

2. What are the root causes of child pornography in your country, if it exists?

3. What obstacles or problems hamper the prevention and elimination of the production, distribution and use of child pornography?

4. What measures and action have been or are being taken to prevent and eliminate the production, distribution and use of child pornography? Please give examples and assess strengths and weaknesses.

5. What national laws exist to prevent and eliminate the production, distribution and use of child pornography? Is it an offence to produce, distribute and/or possess child pornography? Please give name of law, date and reference; attach texts if possible.

6. What do the laws on child pornography cover: printed matter, films, video, computerized services? How effective are such laws, and what are the sanctions? Please assess strengths and weaknesses.

7. Have there been any prosecutions on the production, distribution and use of child pornography? Please give details and statistics.

Question XII

1. Do national development plans, national youth/child policies or other national programmes explicitly mention specific targets and action to prevent and eliminate child pornography?

2. How are they implemented? Please assess strengths and weaknesses.

3. Please give examples of measures and action (e.g. programmes, projects) to implement these plans.

4. How much budget is available for these measures and action? Is it sufficient?

5. Who are the counterparts/partners in the implementation of these plans (e.g. governmental, non-governmental, community, children, etc.)?

6. How are these plans evaluated? Who evaluates, and is there follow-up action?

7. What other resources and measures are required to make these plans effective in practice?

E. Miscellaneous

Question XIII

1. Are there laws, policies, measures and budgets (e.g. development aid, social welfare) to help those families who are at risk of becoming involved in the sale of children, child prostitution and/or child pornography?

2. Are there laws, policies, measures and budgets (e.g. development aid, social welfare) to help raise the status of women/girls who would otherwise be involved in the sale of children, child prostitution and/or child pornography?

3. Are there laws, policies, measures and budgets (e.g. development aid, social welfare) to prevent customers/consumers from becoming involved in the sale of children, child prostitution and/or child pornography? Are there sanctions against those who are involved in exploiting children in these ways?

4. Are there laws, policies, measures and budgets to prevent the business sector (e.g. tourist industry, factory owners, film industry, etc.) from undertaking or becoming parties to the sale of children, child prostitution and/or child pornography? Are there sanctions against those who are involved in exploiting children in these ways?

5. Are there laws, policies, measures and budgets to help law enforcement personnel prevent and eliminate the sale of children, child prostitution and child pornography? Are there sanctions against those who abuse their powers? Are there incentives (e.g. better pay) for those who do their duty well?

6. Are there laws, policies, measures and budgets to help non-governmental organizations prevent and eliminate the sale of children, child prostitution and child pornography?

7. Are there laws, policies, measures and budgets to help community institutions and personnel (e.g. religious groups, youth/children's groups, village leaders) prevent and eliminate the sale of children, child prostitution and child pornography?

8. Are there laws, policies, measures and budgets to help the mass media prevent and eliminate the sale of children, child prostitution and child pornography?

9. Are there laws, policies, measures and budgets to help professional groups and associations (e.g. medical associations, law associations) prevent and eliminate the sale of children, child prostitution and child pornography?

Question XIV

1. Are legal aid and assistance available to the families, legal guardians or representatives of child victims of sale, prostitution and pornography, and to the victims themselves? Please give examples and assess strengths and weaknesses.

2. Are there public and/or private rehabilitation programmes and measures for victims of the sale of children, child prostitution and child pornography? Please give examples and assess strengths and weaknesses, including positive and negative effects on the children. Please give suggestions as to how these programmes could be improved.

3. Are there public and/or private rehabilitation programmes and measures for exploiters and abusers of children, especially if there are psychological reasons for their misconduct? Please give examples and assess strengths and weaknesses.

Question XV

1. To what extent is the issue of the sale of children, child prostitution and child pornography dealt with in formal education (e.g. primary, secondary and tertiary levels)? Please describe the substance and form (e.g. whether it is taught as part of existing courses).

2. To what extent is the issue of the sale of children, child prostitution and child pornography dealt with in non-formal education (e.g. out-of-school programmes and via television/radio)? Please give examples.

3. How active are the mass media in collecting and disseminating information on these matters?

4. Is there a data-gathering institution/mechanism on these matters? Please give examples of the types of information gathered, strengths and weaknesses.

5. What is the current state of research on these matters? What has been done and what is needed?

Question XVI

Please add any further suggestions and recommendations. Please supply texts of documents referred to, wherever possible.

Annex III

PROGRAMME OF ACTION FOR THE PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY^a

General

1. Child victims of trafficking and sale, child prostitution and child pornography are children in especially difficult circumstances, as indicated in the World Declaration on the Survival, Protection and Development of Children, adopted in New York on 30 September 1990 by the World Summit for Children (see E/CN.4/1991/59, annex).

2. The trafficking in and sale of children, child prostitution and child pornography constitute modern forms of slavery which are incompatible with human rights, human dignity and values and jeopardize the welfare of individuals, families and society as a whole.

3. To prevent the trafficking in and sale of children, child prostitution and child pornography, concerted measures are called for at the national, regional and international levels, including information, education, assistance and rehabilitation, legislative measures and a strengthening of law enforcement in this field. Coordinating agencies should be appointed or established at the national, regional and global levels.

4. At the global level, coordination of the Programme of Action should be carried out by the Centre for Human Rights in cooperation with other sections of the United Nations Secretariat, the Centre for Social Development and Humanitarian Affairs of the Secretariat, the United Nations Development Programme, the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization. Cooperation should also be established with regional bodies, the World Tourism Organization, the International Criminal Police Organization and non-governmental organizations.

5. Economic conditions will continue to have considerable influence over the destiny of children, particularly in the developing countries. For the future of all children, it is absolutely essential to ensure or revive sustained and sustainable economic growth and development in all countries.

6. The best interests of the child should govern every decision and guide all efforts undertaken to implement this Programme of Action.

7. The measures contained within this Programme of Action should be implemented bearing in mind the economic imbalance which exists between industrialized States and the developing nations and the need to support the efforts of developing countries in this regard.

8. States are required to accord a clear high level of commitment and priority to combat and eliminate the trafficking in, sale and sexual exploitation of children.

9. States should systematically discourage the exercise of all customs, traditions and practices which encourage the trafficking in and sale or sexual exploitation of children.

10. The sale of children, child prostitution and child pornography cannot be justified by reason of poverty or underdevelopment. Besides the long-term action required to treat the underlying causes and thus prevent these phenomena from occurring in the future, it is essential that States take urgent and immediate measures to reduce the dangers that children face.

11. In situations of emergency, national or international conflicts, or disasters, when communities and normal patterns of life break down, children are especially vulnerable. In such circumstances, States should take all necessary measures to protect children from trafficking, sale and sexual exploitation.

Information

12. International, regional and national information campaigns are required to raise public awareness at all levels of the grave problems of trafficking in and sale of children, child prostitution and child pornography by:

- (a) Warning and informing people about these grave abuses;
- (b) Informing them about prevention programmes;
- (c) Publicizing ways of reporting these abuses;
- (d) Publicizing services for victims;
- (e) Making known the penalties for the perpetrators;
- (f) Teaching that culture and traditions which encourage these forms of child abuse are contrary to international norms for the protection of children.

13. In order to increase the availability and to improve the quality of information, investigation of abuses should be undertaken by public and private institutions. The results should, wherever possible, be made public and exchanged between governmental and non-governmental organizations at the local, national and international levels. Due regard should be paid to the need for confidentiality with regard to the identity of the victims.

14. It is imperative that information programmes be carried out on a continuous basis. Nevertheless, to provide a focus for the campaigns, States should consider the possibility of proclaiming a world day for the abolition of contemporary forms of slavery. The anniversary of the adoption of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 2 December, might be an appropriate date. Alternatively, an international children's day already established in a State's calendar might be used for this purpose.

15. The media should contribute fully to these information efforts with a view to ending the silence surrounding these forms of child exploitation.

16. Non-governmental organizations and associations should be encouraged to lend their full support to these efforts.

17. Law enforcement agencies should be given a significant role in these information campaigns.

Education

18. The following educational goals are central to this Programme of Action:

- (a) Universal primary education for all, with special emphasis on girls;
- (b) Accelerated literacy programmes for women and girls;
- (c) Vocation-oriented formal and/or non-formal education curricula.

19. Preventive educational programmes could usefully be integrated into primary and secondary school curricula. Similar programmes should be designed for out-of-school children and particularly vulnerable groups, for example, street children, adolescent mothers and single and abandoned mothers.

20. Specific educational measures and training should be directed towards professionals who work with children, including teachers,

^a Commission on Human Rights resolution 1992/74 of 5 March 1992, annex (Official Records of the Economic and Social Council, 1992, Supplement No. 2 (E/1992/22), chap. II, sect. A).

social workers, health workers, members of the police, members of the judiciary and religious personnel. Special educational measures should be directed towards the general public, especially men and parents, and to particular groups, such as travel agencies, tourists and the military.

21. All educational efforts should be based on universal ethical principles including the recognition of the integrity of the family and of every child's fundamental rights to the integrity of his or her own body and the protection of his or her identity. Such educational programmes should include:

- (a) The rights of the child and the respect due to all children by all;
- (b) The inculcation of values such as self-esteem;
- (c) The transmission of universal ethical principles;
- (d) Making the child understand the dangers of trafficking and sale, child prostitution and pornography, including health risks such as acquired immunodeficiency syndrome, and of drug and alcohol consumption and their damaging effects;
- (e) Ways to prevent, identify and expose such abuses and to help child victims;
- (f) Education in fatherhood and motherhood, including the need to create a family atmosphere of trust and communication within which a child can expose these issues;
- (g) The principle of equality between men and women.

22. Innovative methods, including the use of the mass media, and grass-roots community-based methods reaching the widest possible public, including potential victims, should be encouraged.

23. In all educational measures, care should be taken to avoid both underplaying and sensationalizing these issues. Account should be taken of the sociocultural characteristics and economic conditions of each country and, where children are involved, of the age of the child.

Legal measures and law enforcement

24. Preventive legislation aimed at protecting children should be promulgated, strengthened and better enforced. Police, courts and treatment and support systems should focus on the welfare and protection of children. Legal aid should be made available to those who claim to have been sexually violated and to parents or legal guardians in cases of trafficking in and sale of children. Methods should be developed to obtain evidence from the child without further traumatization, and witnesses should be afforded protection.

25. Trafficking in, sale or sexual exploitation of children are serious crimes and must be treated as such. Efforts should be made to detect, arrest and convict clients, consumers, procurers, intermediaries and accomplices, and provision made for sanctions which take into account the grave nature of these offences.

26. Effective legislative and enforcement measures must also be directed against the intermediaries and others who encourage and make profits from the trafficking in, sale and sexual exploitation of children, such as agents, dealers, brothel owners, policemen, and others involved. The proceeds from such activities should be seized and confiscated.

27. The Convention on the Rights of the Child provides protection against trafficking in, sale and sexual exploitation of children. States are encouraged to become parties to the Convention at the earliest possible date. For its implementation within States, national institutions composed of representatives of public agencies, non-governmental organizations and associations should be established to coordinate action and to protect children and their rights.

28. States are urged to become parties to the International Labour Organisation conventions pertaining to the employment of children, in particular the Minimum Age Convention, 1973 (No. 138), and effectively to enforce laws which prohibit the employment of children in work likely to endanger their morals and physical health.

29. States are urged to ratify and effectively implement the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949, and furthermore, to submit reports regularly to the Secretary-General of the United Nations on their implementation.

30. States are urged to take all necessary measures to ensure that persons involved in trafficking in, sale or sexual exploitation of children are punished or extradited to other countries.

31. States should keep under review all new forms of technology which could be used for trafficking in, sale or sexual exploitation of children, and adopt appropriate legislation.

Social measures and development assistance

32. These abuses are often linked with poverty. Their prevention and elimination requires long-range structural reforms in the social and economic fields. In the short term, development activities of United Nations agencies, especially the World Bank and the International Monetary Fund, and of other international and national agencies should have a substantive and positive impact on children and promote appropriate development strategies and policies. Priority should be given to formulating a family policy to prevent abuse and to policies aimed at improving the social, economic and working conditions of girls and women in general, and of the poorest girls and women in particular. Local community-based projects, including collective self-help projects, should also be encouraged.

33. The needs of children who have been victims of trafficking, sale or sexual exploitation should be taken into account in development plans and assistance. Special attention should be given to certain groups of children at risk, for example, street children, teenage single mothers, children of broken homes or those whose mothers are in prostitution and other children in especially difficult circumstances. Governments, specialized agencies, United Nations bodies and non-governmental organizations should be encouraged to initiate projects designed to protect street children from sexual abuse (mobile units to offer social and medical aid, small-scale enterprise projects for children, "safe houses", emergency centres, etc.). Efforts should be made to reunite street children in cities with their families in rural areas and in general to improve the social, economic and working conditions of parents whose children are victims of sexual exploitation or are at high risk.

Rehabilitation and reintegration

34. Rehabilitation and reintegration programmes using an interdisciplinary approach should be established to assist children who have been victims of trafficking, sale or sexual exploitation and their families. Agencies implementing such programmes, whether public or non-governmental, should be established, or strengthened by being provided with the necessary support and funding. They should be encouraged to request technical assistance, evaluational assistance, information on new methods of self-funding schemes, etc. from United Nations bodies and from public or private, national or international sources with relevant competence.

International coordination

35. Bilateral and multilateral cooperation among law enforcement agencies is essential. States should establish their own databases, improve their reporting at all levels, exchange information and report to the International Criminal Police Organization to enable a special data bank on suspects involved in cross-border trafficking, sale or sexual exploitation of children to be set up. The experience gained in international police cooperation in combating drug traffic should be used to prevent international traffic in and sexual exploitation of children.

36. A special intergovernmental task force should be set up at the regional level to assist Governments in devising ways and means of checking the phenomena of the trafficking in, sale and sexual exploitation of children; national level commissions should plan new measures to address these problems in cooperation with concerned non-governmental organizations.

Trafficking in and sale of children

37. The measures mentioned in the following paragraphs specific to the trafficking in and sale of children are required.

38. States should take effective legal and administrative measures to prevent the abduction and sale of children for whatever purpose (sexual exploitation, any form of labour, adoption, criminal activities, trafficking in organs, etc.). Laws should be adopted or strengthened which impose penalties on parents and on all others knowingly involved in the trafficking in and sale of children.

39. States should pay special attention to preventing and severely punishing any case of sale, abduction or traffic of children for transplantation of organs, particularly from developing to developed countries. They should cooperate with each other and with intergovernmental and non-governmental organizations to these ends.

40. States should adopt urgent and effective procedures at the national level and through bilateral and international cooperation to find abducted, unlawfully removed or disappeared children and to trace families and reunite such children with their families. In this regard, special attention should be given to the situation of refugee children and their need for protection from trafficking, sale and sexual exploitation.

41. Measures should be taken to ensure that international adoptions do not involve the sale of children by their parents or their illicit removal. Procedures for this purpose should be based on the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally of 1986, and the Convention on the Rights of the Child. Under no circumstances must adoption be allowed to involve financial gain for any of the parties involved. The commercialization of adoption procedures should be prohibited.

42. Intercountry adoptions, where permitted by national law, should only take place through competent, professional and authorized agencies in both the country of origin and the receiving country of the children.

43. The procedures for childbirth registration, renunciation of parental rights and consent to adoption by a parent should be strictly regulated by law and adequate counselling offered to the biological parents.

44. Governmental and non-governmental bodies should cooperate at the national and international levels in order to promote and develop local and national alternatives to intercountry adoptions, such as child-care facilities, including day care and other support services for parents, care by relatives, foster family care and domestic adoptions. Special efforts should be made to ensure that parents are not incited to part with their children for socio-economic reasons.

Child prostitution

45. The measures mentioned in the following paragraphs specific to child prostitution, independently of whether the clients are locals or foreigners, should be taken.

46. Incest and sexual abuse within the family or by the child's employers may lead to child prostitution. States therefore should take all appropriate legislative, administrative, social and educational measures to protect children against all forms of abuse while in the care of parents, family or legal guardians or any other person.

47. Special attention should be paid to the problem of sex tourism. Legislative and other measures should be taken to prevent and combat sex tourism, both in the countries from which the customers come and those to which they go. Marketing tourism through the en-

ticement of sex with children should be penalized on the same level as procurement.

48. The World Tourism Organization should be encouraged to convene an expert meeting designed to offer practical measures to combat sex tourism.

49. States with military bases or troops, stationed on foreign territory or not, should take all the necessary measures to prevent such military personnel from being involved in child prostitution. The same applies to other categories of public servants who for professional reasons are posted abroad.

50. Legislation should be adopted to prevent new forms of technology from being used for soliciting for child prostitution.

Child pornography

51. The measures mentioned in the following paragraphs specific to child pornography are required.

52. Law enforcement agencies, and social and other services should place a higher priority on the investigation of child pornography in order to prevent and eliminate any exploitation of children.

53. States that have not yet done so are urged to enact legislation making it a crime to produce, distribute or possess pornographic material involving children.

54. Where required, new legislation and penalties should be introduced for the mass media which broadcast or publish material threatening the psychic or moral integrity of children or containing unhealthy or pornographic descriptions and to prevent new technology being used to produce pornography, including video films and pornographic computer games.

55. States should be encouraged to protect children from exposure to adult pornography, especially through new forms of technology, by adopting suitable legislation and appropriate measures of control.

56. States should encourage the mass media and the journalistic profession to adopt codes of practice governing the publication of material, including advertising, with pornographic overtones, and should remind them of their responsibility in influencing public attitudes.

Follow-up

57. States are invited to consider this Programme of Action in relation to the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s (see E/CN.4/1991/59, annex) and to the implementation of the Convention on the Rights of the Child.

58. States are further invited to inform the Sub-Commission on Prevention of Discrimination and Protection of Minorities periodically on measures taken to implement the Programme of Action, whether or not they are parties to the Convention on the Rights of the Child.

59. United Nations bodies, specialized agencies and non-governmental organizations are invited to examine the application of the above Programme of Action as appropriate to their mandates.

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