

DRAFT CONVENTION FOR THE SUPPRESSION OF THE TRAFFIC IN PERSONS  
AND OF THE EXPLOITATION OF THE PROSTITUTION OF OTHERS

## Note by the Secretary-General

1. In its resolution No. 43 (IV) of 29 March 1947\* the Economic and Social Council, on the recommendation of the Social Commission, instructed the Secretary-General, *inter alia*, to resume the study of the 1937 Draft Convention for the Suppression of the Exploitation of the Prostitution of Others, to make any necessary amendments in order to bring it up to date and to introduce any desirable improvement in view of the changes in the general situation since 1937; to ascertain from Governments whether the Draft Convention as amended is likely to meet with their approval and to submit the Draft Convention together with any amendments made therein to the Social Commission for the subsequent approval of the Economic and Social Council.
2. In its resolution No. 83 (V) of 14 August 1947\*\* the Council further requested the Secretary-General to present to the Social Commission, at an early session, a report as to the possibility of the unification of the existing international instruments relating to the suppression of the traffic in women and children, including the 1937 Draft Convention.
3. On 23 September 1947, the Secretary-General communicated to Member Governments and to certain non-governmental organizations a memorandum on the revision of the 1937 Draft Convention, including the proposed amendments to the draft\*\*\*, requesting them to transmit their observations not later than 15 November 1947.
4. At its third session in April 1948, the Social Commission considered the report submitted by the Secretary-General on the revision of the 1937 Draft Convention\*\*\*\* as well as the observations received from Governments and from those non-governmental organizations which were consulted.

\* Document E/437, page 24.

\*\* Document E/573, page 53.

\*\*\* Document E/574.

\*\*\*\* Document E/CN.5/41; Document E/CN.5/41, Corr. 1 and 2. /In view  
Document E/CN.5/41, Add. 1 and 2.

In view of the fact that only sixteen Governments had transmitted observations, the Social Commission did not discuss the matter in detail but expressed the view that the Secretary-General should continue the study of the 1937 Draft Convention and should also prepare the unification of the existing international instruments referred to in paragraph 2 above.

5. In considering the report of the Social Commission on this subject<sup>s</sup>, the Economic and Social Council, at its seventh session, adopted the following resolution, No. 155 (VII) E., on 13 August 1948\*\*.

"SUPPRESSION OF TRAFFIC IN WOMEN AND CHILDREN

I

The Economic and Social Council,

Considering that in resolution 43 (IV) of 29 March 1947 the Council instructed the Secretary-General, inter alia, to resume the study of the 1937 draft Convention regarding the exploitation of the prostitution of others, make any necessary amendments in order to bring it up to date and introduce any desirable improvement in view of the changes in the general situation since 1937;

Considering that in resolution 83 (V) of 14 August 1947 the Council requested the Social Commission to consider the possibility of the unification of the 1937 draft Convention and the existing instruments for the suppression of the traffic in women and children, namely:

1. International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic;
2. International Convention of 4 May 1910 for the Suppression of the White Slave Traffic;
3. International Convention of 30 September 1921 for the Suppression of the Traffic in Women and Children; and
4. International Convention of 11 October 1933 for the Suppression of the Traffic in Women of Full Age;

Considering that developments in general conditions since 1937 make feasible the immediate formulation and conclusion of a new and comprehensive convention for the suppression of the traffic in women and children and the prevention of prostitution and that such a convention should unify the above-mentioned instruments and also embody the substance of the 1937 draft Convention as well as any desirable improvement therein;

\* Document E/779, pages 24 - 25.

\*\* Document E/1065, page 34.



Requests the Secretary-General to prepare a draft of such a convention; to ascertain the views of Governments and international organizations specialized in this field regarding this draft; and to submit the draft Convention and any views expressed to the Social Commission at its fourth session.

Requests the Social Commission to give first priority to the examination of such a draft Convention and to submit its views thereon to the Council not later than the ninth session of the Council.

Suggests to the Social Commission that, in the event of it finding that it cannot complete its task in the time at its disposal, it should submit for the consideration of the Council at its ninth session a revision of the text of the draft Convention of 1937, including therein any necessary formal amendments and any additional amendments which the Commission may see fit to suggest, but excluding amendments with regard to which there is not, in the opinion of the Commission likely to be a general measure of agreement.

## II

### The Economic and Social Council

Recommends that, in anticipation of, and as a preparation for the conclusion of such convention as referred to under I above, Member Governments be asked, where they have not already done so, to include or to encourage the inclusion in their public and voluntary social welfare services of provisions for combatting the evil of prostitution both from the angle of prevention and rehabilitation, including free and confidential treatment for venereal disease in so far as medical care is not provided for otherwise; and, in so far as children and young persons are concerned, to consider the introduction of legislation, where such legislation does not already exist, which will empower the State to take re-educative and rehabilitative measures in regard to children and young persons who are in need of care and who threaten to become, or have already become prostitutes."

6. The Secretariat has accordingly prepared the attached Draft Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

This document consolidates the following international instruments:

(a) International Agreement for the Suppression of the White Slave Traffic; (Paris, 18 May 1904);

(b) International

- (b) International Convention for the Suppression of the White Slave Traffic (Paris, 4 May 1910);
- (c) International Convention for the Suppression of the Traffic in Women and Children (Geneva, 30 September 1921);
- (d) International Convention for the Suppression of the Traffic in Women of Full Age (Geneva, 11 October 1933).

It further embodies the substance of the 1937 Draft Convention for the Suppression of the Exploitation of the Prostitution of Others and finally includes certain alterations and new provisions suggested in view of the changes in the general situation since 1937.

The texts of the instruments referred to under (a) and (b) are to be found in document E/CN.5/41 on pages 99 and 101 respectively. The texts of the conventions mentioned under (c) and (d) are contained in the same document on pages 78 and 80 respectively, and the original text of the 1937 Draft Convention is quoted in the left column of pages 21 - 45 of document E/CN.5/41.

7. The changes and the new provisions in the 1937 Draft Convention set forth in document E/574 (see under 3. above) are, in a modified form, incorporated in the consolidated draft contained in the present document. The modifications have been made in the light of the comments transmitted to the Secretariat by certain Governments and non-governmental organizations, in order to meet their criticism.

Comments have been transmitted by the following Governments:

Bolivia	Netherlands
Brazil	New Zealand
Canada	Norway
Czechoslovakia	Pakistan
Denmark	Philippine Republic
Dominican Republic	Union of South Africa
El Salvador	United Kingdom
Greece	United States of America
India	Venezuela

Comments have also been received from the following non-governmental organizations:

- Association for Moral and Social Hygiene,
- International Abolitionist Federation,
- International Alliance of Women,
- International Bureau for the Suppression of Traffic in Women and Children,
- International Criminal Police Commission.

The comments mentioned above are reproduced in annex II to the present document, issued as a separate paper in order to facilitate the simultaneous study of the articles in question and the observations. Annex I, also a separate paper, contains a chart indicating the contents of the articles of the revised 1937 Draft Convention with respect to which comments have been made, as well as the observations. Under each article, reference is made to the corresponding article in the new consolidated draft.

8. The Secretariat has received the following suggestions for new provisions to be included in the consolidated draft:

The International Criminal Police Commission has suggested that brigades of women police should be organized to deal with the special police problems in connection with the prevention of prostitution.

The International Bureau for the Unification of Penal Law has suggested a system of prison supervision to prevent the spread of prostitution through contacts made in prisons.

As these suggestions have not been considered by Governments, the provisions in question have not been included in the present draft in order not to delay the acceptance of the Convention, but the Secretariat will prepare a supplementary note on the said proposals. Governments will therefore be in a position to consider the proposals and, if they wish, to bring them up for discussion when the present Draft Convention is being considered by the Social Commission.

DRAFT CONVENTION FOR THE SUPPRESSION OF THE TRAFFIC IN PERSONS  
AND OF THE EXPLOITATION OF THE PROSTITUTION OF OTHERS

Preamble

WHEREAS with respect to the Suppression of the Traffic in Women and Children, the following international instruments are in force:

1. International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic;
2. International Convention of 4 May 1910 for the Suppression of the White Slave Traffic;
3. International Convention of 30 September 1921 for the Suppression of the Traffic in Women and Children, as amended by the Protocol adopted by the General Assembly of the United Nations on 20 October 1947, and
4. International Convention of 11 October 1933 for the Suppression of the Traffic in Women of Full Age, as amended by the said Protocol;

WHEREAS the League of Nations in 1937 prepared a Draft Convention for Suppressing the Exploitation of the Prostitution of Others; and

WHEREAS developments in general conditions since 1937 make feasible the conclusion of a new and comprehensive convention consolidating the above-mentioned instruments and embodying the substance of the 1937 Draft Convention as well as desirable alterations therein;

CONSEQUENTLY the General Assembly by a resolution adopted on ..... approved the following Convention and proposed it for accession by each Member of the United Nations and by each non-Member State which the Economic and Social Council may invite to accede thereto.

Article 1

- |      |         |                                                                                                                                                                                                                                                    |
|------|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1910 | Art.1,2 | The States Parties to this Convention agree to provide for the punishment of any person who, willfully, even with the consent of the victim,                                                                                                       |
| 1921 | Art.2   |                                                                                                                                                                                                                                                    |
| 1933 | Art.1   | (a) procures, entices or leads away, by whatever means, in order to gratify the passions of another, a person of either sex for the purpose of prostitution or any related immoral acts, regardless of where that purpose is to be carried out, or |
| 1937 | Art.1   |                                                                                                                                                                                                                                                    |
| 1937 | Art.2   |                                                                                                                                                                                                                                                    |
|      | (b & c) |                                                                                                                                                                                                                                                    |
|      |         | (b) aids or exploits the prostitution of another person with a third party.                                                                                                                                                                        |

Article 2

- 1937 Art.2(a) The States Parties to this Convention further agree to provide for the punishment of any person who keeps or manages a brothel, or knowingly lets a building or a part thereof for the purpose of the prostitution of others.
- It shall also be a punishable offence knowingly to finance or take part in the financing of a brothel.

Article 3

- 1921 Art.3 Attempts to commit the offences referred to in  
1933 Art.1 Articles 1 and 2, and acts preparatory to the commission thereof, shall also be punishable.

Article 4

- 1933 Art.3 Acts of participation in the offences falling within this Convention shall, so far as the domestic law permits, be treated as separate offences, even when the persons committing them can only be brought to trial in different countries or territories.

Article 5

- 1937 Art.5 In so far as injured parties are allowed under the domestic law to join in criminal prosecutions, foreigners shall be entitled to exercise this right on the same terms as nationals.

Article 6

- (see Art.13 of the revised 1937 draft.) The States Parties to this Convention agree to take all the necessary measures to repeal or abolish throughout the territories under their jurisdiction any legislative, regulatory and customary provisions which may exist, by virtue of which women who engage in, wish to engage in, or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional measures for supervision or notification.

Article 7

- 1937 Art.4 Previous convictions pronounced in foreign countries or territories for offences referred to in this Convention, shall, subject to the requirements laid down by the domestic law, be taken into account for the purpose of establishing recidivism.

Such convictions shall further, subject to the reservations made in the preceding paragraph, be taken into account for the purpose of imposing incapacities, disqualifications or interdictions, whether under public or private law.

/Article 8

Article 8

1910 Art.5           The offences referred to in Articles 1 and 2 of this  
1937 Art.6           Convention shall be included as extraditable in any extradition  
treaty which has been or may hereafter be concluded between any  
of the States Parties to the Convention.

The States Parties to the Convention who do not make extradition conditional on the existence of a Treaty, shall henceforward recognize the offences referred to in the Convention as cases of extradition between themselves.

Extradition shall be granted in conformity with the law of the country or territory to which the request is made.

Article 9

1937 Art.7           In countries or territories where the principle of the extradition of nationals is not recognized, nationals who have returned to their own country or territory after the commission abroad of any of the offences referred to in Articles 1 and 2 of this Convention shall be prosecuted and punished in the same manner as if the offence had been committed in that country or territory, even in a case where the offender has acquired his nationality after the commission of the offence.

This provision shall not apply if, in a similar case, the extradition of a foreigner cannot be granted.

Article 10

1937 Art.8           Foreigners who are in the territory of a State Party to this Convention and who have committed abroad any of the offences referred to in Articles 1 and 2 shall be prosecuted and punished as though the offence had been committed in that territory, if the following conditions are fulfilled:

- (a) Extradition has been demanded and could not be granted for a reason not connected with the Act itself;
- (b) The Law of the country or territory of refuge recognizes the jurisdiction of its own courts in respect of offences committed abroad by foreigners;
- (c) The foreigner is a national of a country or territory which recognizes the jurisdiction of its own courts in respect of offences committed abroad by foreigners.

Article 11

1937 Art.9           The provisions of Articles 9 and 10 shall not apply when the person charged with the offence has been tried in a foreign country or territory and, if convicted, has served his sentence or had it remitted or reduced on grounds recognized by the laws of that foreign country or territory.



Article 12

1937 Art.14

The participation of a State Party in this Convention shall not be interpreted as affecting that Party's attitude towards the general question of the limits of criminal jurisdiction as a question of international law.

Article 13

1937 Art.15

This Convention does not affect the principle that the offences to which it refers, shall in each country or territory be defined, prosecuted and punished in conformity with the general rules of its domestic law.

Article 14

1910 Art.6

1937 Art.10

States Parties to this Convention shall be bound to execute letters of request relating to offences to which the Convention applies, in accordance with their domestic law and practice.

The transmission of letters of request shall be effected:

- (a) by direct communication between the judicial authorities; or
- (b) by direct communication between the Ministers of Justice of the two countries or territories, or by direct communication from another competent authority of the country or territory making the request to the Minister of Justice of the country or territory to which the request is made; or
- (c) through the diplomatic or consular representative of the country or territory making the request in the country or territory to which the request is made; this representative shall send the letters of request direct to the competent judicial authority or to the authority indicated by the Government of the country or territory to which the request is made; and shall receive direct from such authority the papers constituting the execution of the letters of request.

In cases (a) and (c) a copy of the letters of request shall always be sent to the superior authority of the country or territory to which application is made.

Unless otherwise agreed, the letters of request shall be drawn up in the language of the authority making the request, provided always that the country or territory to which the request is made may require a translation in its own language, certified correct by the authority making the request.

/Each Stat.

Each State Party to the Convention shall notify to each of the other States Parties to this Convention the method or methods of transmission mentioned above which it will recognize for the letters of request of the latter State.

Until such notification is made by a State its existing procedure in regard to letters of request shall remain in force.

Execution of letters of request shall not give rise to a claim of reimbursement of charges or expenses of any nature whatever, other than expenses of experts.

Nothing in the present article shall be construed as an undertaking on the part of the States Parties to this Convention to adopt in criminal matters any form or methods of proof contrary to their laws.

#### Article 15

1904 Art.1  
1937 Art.11

Each State Party to this Convention shall establish or maintain a service charged with the co-ordination and centralization of the results of the investigation of offences referred to in this Convention.

Such services should compile all information calculated to facilitate the Prevention and Punishment of the Offences referred to in this Convention and should be in close contact with the corresponding services in other countries or territories.

#### Article 16

1910 Art.7  
1933 Art.3  
1937 Art.12

Each service referred to in Article 15, in so far as it considers it desirable to do so, and within the framework of the law of that country or territory, shall notify to the services of other countries or territories, giving all necessary particulars (including descriptions, fingerprints, photographs, methods of operation, police records, records of conviction, etc.):

- (a) Any Act referred to in this Convention, even if it has not been carried into effect;
- (b) Any search for, any prosecution, arrest, conviction, refusal of admission or expulsion of persons guilty of any of the offences referred to in this Convention, the movements of such persons and any pertinent information with regard to them.

Article 17

(See Art.17 of the revised 1937 draft.) The States Parties to this Convention agree to take or to encourage, if they have not already done so, the necessary measures against prostitution through their public and, or, private social services, with a view to the prevention of prostitution and the rehabilitation of prostitutes. Such measures shall include free, voluntary and confidential treatment of venereal diseases, in so far as medical care is not provided for otherwise.

The States Parties further agree to communicate to the Secretary-General of the United Nations information regarding the operation and results of the preventive and rehabilitative services referred to in the preceding paragraph. The Secretary-General shall place such information at the disposal of any other States Parties to this Convention or other Governments wishing to make use thereof.

Article 18

1921 Art.7

The States Parties to this Convention undertake in connection with immigration and emigration to adopt or maintain such measures as are required to check the traffic in persons of either sex for the purpose of prostitution. In particular, they undertake to make such regulations as are required for the protection of women and children who are immigrants or emigrants not only at the points of departure and arrival but also during the journey, and to arrange for the exhibition in railway stations, ports and airports of notices warning the public of the dangers of the above-mentioned traffic and indicating the places where they can obtain accommodation and assistance.

1904 Art.2

The States Parties to the Convention undertake to have a watch kept, especially in railway stations, ports of embarkation and en route for persons engaged in the International Traffic in Persons for the purpose of Prostitution. With this object instructions will be given to obtain within legal limits all information likely to lead to the detection of such traffic. The arrival of persons who clearly appear to be principals of accomplices in, or victims of, such traffic shall be notified to the authorities of the place of destination.

/Article 19

Article 19

1904 Art.3

The States Parties to this Convention undertake, when the case arises and within legal limits, to have the declarations taken of persons of foreign nationality who are prostitutes, in order to establish their identity and civil status and to discover who has caused them to leave their country or territory. The information obtained shall be communicated to the authorities of the country or territory of origin of the said persons with a view to their eventual repatriation.

The States Parties to this Convention undertake within legal limits and so far as possible, to entrust temporarily and with a view to their eventual repatriation, the victims of international traffic in persons for the purpose of prostitution, when destitute, to public or private charitable institutions or to private individuals offering the necessary security.

The States Parties to this Convention undertake, within legal limits and so far as possible, to repatriate such persons referred to in the preceding paragraph who desire it or who may be claimed by persons exercising authority over them. In the latter case repatriation shall only take place if it is considered to be in the interests of the person to be repatriated. Repatriation shall only take place after agreement as to identity and nationality, as well as place and date of arrival at frontiers. Each State Party to this Convention shall facilitate travel through its territory.

1904 Art.4

Where the persons referred to in the preceding paragraph cannot themselves repay the cost of repatriation and have neither spouse, relatives nor guardian to pay for them, the cost of repatriation shall be borne by the country or territory where they are in residence as far as the nearest frontier or port of embarkation or airport in the direction of the country or territory of origin, and by the country or territory of origin as regards the rest.

1904 Art.5

The provisions of this Article shall not affect any private convention existing between the States Parties to this Convention.

Article 20

1904 Art.6

The States Parties to this Convention shall, if they have

1921 Art.6

not already done so, take the necessary measures for the

supervision of employment agencies in order to prevent persons seeking employment from being exposed to the danger of prostitution.

Article 21

1910 Art.4

The States Parties to this Convention shall communicate to the Secretary-General of the United Nations such laws as have already been or may in the future be promulgated in their countries or territories, relating to the subjects of this Convention, as well as all measures taken by them concerning the application of this Convention. This information shall be published periodically by the Secretary-General and sent to all members of the United Nations and to non-member States to which this Convention is officially communicated in accordance with Article 23.

Article 22

If any dispute shall arise between States Parties to this Convention relating to its interpretation or application and if such disputes cannot be satisfactorily settled by diplomatic means, the Parties concerned shall refer the dispute to the International Court of Justice.

Article 23

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be open for signature or acceptance on behalf of any Member of the United Nations and also on behalf of any non-Member State to which an invitation has been addressed by the Economic and Social Council. It shall also be open for signature or acceptance on behalf of any trust territory administered by the United Nations and on behalf of the Free Territory of Trieste, and for the purposes of this Convention the word "State" shall include any such Territory.

Any such State may:

- (a) sign without reservation as to acceptance;
  - (b) sign subject to acceptance and subsequently accept;
- and
- (c) accept.

Acceptance shall be effected by the deposit of a formal instrument with the Secretary-General of the United Nations.

Article 24

This Convention shall come into force upon the expiration of ninety days following the day on which two or more States have signed it without reservation or accepted it in accordance with Article 23.

Article 25

A State which has signed without reservation as to acceptance or accepted pursuant to Article 23 shall become a Party to this Convention upon the expiration of ninety days following the date of such signature or acceptance, or, if the Convention has not entered into force at that time, then upon its entry into force.

Article 26

Any State may at the time of signature or on the deposit of its formal instrument of acceptance or at any time thereafter declare by a notification addressed to the Secretary-General of the United Nations that this Convention shall extend to all or any of the territories for which it has international responsibility, and this Convention shall extend to the territory or territories named in the notification as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of the notification.

Article 27

On the expiration of five years from the entry into force of this Convention, it may be denounced by a formal instrument deposited with the Secretary-General of the United Nations.

Such denunciation shall take effect one year from the date upon which it is received by the Secretary-General of the United Nations. Such denunciation shall be operative only in respect of the State on whose behalf it was made, or if it was on behalf of a territory to which this Convention has been extended under Article 26, then only in respect of that territory.

Article 28

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-Member States referred to in Article 23 of the date of entry into force of this Convention and shall notify them of all signatures and acceptances received in accordance with Article 23, of



all notifications received in accordance with Article 26, and of all denunciations received in accordance with Article 27.

Article 29

It is understood that when this Convention is signed without reservation as to acceptance, or an instrument of acceptance or any subsequent notification is deposited on behalf of any State, that State shall be in a position under its own law to give effect to the terms of this Convention.

Article 30

The provisions of this Convention shall be applied instead of those of the International Agreement for the Suppression of the White Slave Traffic of 18 May 1904, the International Convention Relating to the Suppression of the White Slave Traffic of 4 May 1910, the International Convention for the Suppression of the Traffic in Women and Children of 30 September 1921 and the International Convention for the Suppression of the Traffic in Women of Full Age of 11 October 1933 by all States Parties to this Convention who are also Parties to one or other of those instruments.

When all States Parties to any one of the instruments referred to in the preceding paragraph, shall have become Parties to this Convention, that instrument shall cease to have effect.

Article 31

In accordance with Article 102 of the Charter of the United Nations, this Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

IN FAITH WHEREOF the undersigned duly authorized, have signed this Convention on behalf of their respective Governments.

Done at ..... this ..... day of .....

one thousand nine hundred and forty nine in a single copy which shall remain deposited in the archives of the United Nations and certified true copies of which shall be delivered to all Members of the United Nations and to non-Member States referred to in Article 23.

COMMENTARY

General Remarks

1. It will be noted throughout the new draft that provisions drawn from the existing conventions have been subject to a number of minor drafting changes. This has been necessary in order to achieve a consistent use of terminology throughout the new draft since the existing conventions vary slightly in their form, and also a number of drafting changes have been made to conform with current United Nations practice. Thus, the previous conventions referred to "High Contracting Parties", whereas the new draft speaks throughout of "States Parties to this Convention". The drafting changes of this character are not commented upon individually in the comments which follow on each article since those comments relate only to the substance of the provisions and do not concern themselves with formal changes of this character.

2. The new draft has omitted the provisions formerly suggested as articles 3 and 4 of the redraft of the 1937 Draft Convention. (E/CN.5/41, pages 24 and 25). The article on aggravating circumstances which was criticized by a number of Governments, does not appear to serve any useful purpose and has been omitted on the ground that the new draft, like the previous conventions on the subject, proceeds on the basis that punishment is always a matter for the domestic law and that to specify certain aggravating circumstances in the Convention does not have any operative effects, so much more as it had to be made non-mandatory. The former article 4 which was also criticized by a number of Governments and interested organizations, has been omitted as being outside the range of the Convention and as dealing with a different type of problem and also involving the risk of discrimination against women.

The provision for free medical care for venereal diseases which appeared in article 14 of the redraft of the 1937 Draft Convention (E/CN.5/41, page 32) has been made part of article 17, dealing with social services. Also it is suggested that the medical care should be not only free but voluntary and confidential.

Article 18 of the said redraft has been omitted as superfluous in the consolidated Convention.

REMARKS ON INDIVIDUAL ARTICLES

Article 1

The article is intended to cover all the penal clauses of the Conventions of 1910, 1921 and 1933, as well as article 1 and article 2 (b) and (c) of the 1937 Draft Convention. The 1904 Agreement does not contain any penal clause.

The present article 1 (a) is directly related to articles 1 and 2 of the 1910 Convention, article 2 of the 1921 Convention, article 1 of the 1933 Convention and article 1 of the 1937 draft. To clarify this relation, it is considered desirable to recapitulate very briefly the contents of the said provisions:

The 1910 Convention, supplemented by the 1921 Convention, provided for the punishment of traffickers in Minors of Both Sexes (even if they had consented and were not taken abroad), as well as in Women of Full Age if the offender had used any means of constraint.

The 1933 Convention added the provision for punishment of traffickers in Women of Full Age, even if they had consented, but only if they were taken abroad.

The traffic in women of full age (with their consent, even if the victims were not taken abroad) was thus not covered by the terms of the Conventions, nor was any mention made of offences against males of full age.

Article 1 of the 1937 Convention sought to fill this gap but at the same time it stipulated that the offences must be committed for the purpose of gain. This provision does not appear in any of the earlier conventions.

The present article 1 (a) when compared with the earlier conventions and article 1 of the 1937 Draft Convention taken together goes further in so far as it eliminates the purpose of gain from the definition of the offences even in these two cases.

Although this convention is mainly directed against those who engage in the offences mentioned for the purpose of gain, its eventual aim is to protect the victims of such persons, regardless of the purpose of the offenders. The purpose of gain is therefore irrelevant. Moreover, the gainful intents may be difficult to prove, and its inclusion in the definition of the offence may therefore prevent effective prosecution of offenders.

The present paragraph 1 (b) re-introduces the term "exploits" which appeared in article 2 (c) of the 1937 Draft Convention. As this term is generally taken to involve an aspect of gain, the Convention will contain specific reference to this type of offence.

/It is

It is believed that the present article 1 (a) and (b) taken together cover the substance also of article 2 (b) and (c) of the 1937 draft Convention, thereby rendering them superfluous.

The text of article 1 of the revised issue of the 1937 Draft Convention (E/CN.5/41 - page 21) was criticized by the Governments of Denmark, United Kingdom and the United States, as well as by non-governmental organizations on the grounds that it was too wide and too vague. The Netherlands and United States Governments, inter alia, wished to have the word "willfully" included in the text as a restriction. It should be noted however that of the eighteen Governments which have commented on the revision of the 1937 Draft, only Denmark made any specific objections to the omission of the purpose of gain as a necessary element of the offences. Brazil was in favour of it and the Union of South Africa stated that the laws of the various provinces comprising the Union cover the crimes mentioned in article 1 of the revised 1937 draft.

The majority of the non-governmental organizations which commented upon the said article pointed out that it employed terms without established legal meaning and also terms that might result in special legislation against prostitutes. The International Criminal Police Commission was however in favour of the article.

It is believed that the present article 1 has attained greater precision and that it meets, to a large extent, the criticisms raised against article 1 of the revised 1937 Draft Convention.

#### Article 2

This article corresponds to article 2 (a) of the 1937 Draft Convention. The traditional term "brothel" which did not appear in the revision of the said draft has been re-introduced because it is considered to provide a better basis for legislation than the vague term employed in the revision of the 1937 Draft. The article has been strengthened by including among the punishable offences the letting of a building for the purpose of the prostitution of others and the financing of a brothel.

With respect to article 2 of the revised issue of the 1937 Draft Convention (E/CN.5/41 - page 23) the Governments of New Zealand and the United Kingdom considered that the declaration of houses or places of prostitution as public nuisances would not serve any purpose. The Governments of the United Kingdom and the United States pointed out that the verb "knowingly" should be inserted in the last paragraph of the article, so as to avoid the punishment of persons who, without knowing it, might be financially interested in the running of a brothel.

The Government of Denmark, as well as three non-governmental

/organizations

organizations, expressed the fear that the article might be directed against a person who lets a room to a woman who, without his knowledge, is, or who, later on becomes a prostitute. The article might also be directed against the single prostitute who rents a room or a flat and carries out her "profession". She could be said to "keep" a part of a building "for the purpose of prostitution". The International Abolitionist Federation suggested to avoid this by using the expression "for the purpose of the prostitution of another person" in paragraph 1 of the article.

It is believed that the present article 2 meets the above criticism. Moreover it has been made more complete by deleting the word "owner", because, even a person who is not the owner of a house may be in a legal position to let it.

The Government of the Union of South Africa considered that, as the laws of the Union go further than the article would necessitate, a provision should be added to the effect that the article is not applicable to Parties who are in a like position. It is, however, believed that such clause is unnecessary as the article represents the minimum provisions which a Party is obliged to carry out.

#### Article 3

This article is based on similar provisions in the Convention of 1921 (article 3), the Convention of 1933 (article 1) and the revised Draft Convention of 1937 (article 1). A similar provision is to be found in articles 3 and 4 of the 1938 Convention for the Prevention and Punishment of Terrorism, which is the most recent convention in the field of international penal law.

No objections have been raised to this principle by Governments or organizations commenting upon the revision of the 1937 Draft Convention.

The Secretariat proposes to delete the words "within the legal limits", which appear in the old articles in connection with the punishability of preparatory acts. The provision contained in article 13 of the present Draft Convention would seem to make the omitted words superfluous.

#### Article 4

This article reproduces the provisions of article 3 of the 1937 Draft Convention and is designed to ensure the punishment of persons joining in the Commission of the same offence notwithstanding that the persons are brought to trial in different countries.

The significance of the phrase "countries or territories" which appears in many articles is explained in the comments on article 23 and is also referred to in document E/CN.5/41 - page 25.

Article 5

This article contains the same provisions as were contained in article 5 of the 1937 Draft Convention, but the wording of the clause has been altered in the interests of clarity since a number of Governments indicated that they did not regard the previous wording as sufficiently clear. The new wording is the same as referred to in the comments on article 7 of the revised 1937 Draft (E/CN.5/41 - page 26), and approaches more closely the wording used in the 1938 Convention on Terrorism.

Article 6

This article corresponds to article 13 of the revised 1937 Draft (E/CN.5/41 - page 31). Three Governments commented on the article. Brazil was strongly in favour of it. New Zealand observed that as prostitution is illegal in that country, New Zealand will not be affected by the article. The Philippines wanted a slight change of the text for the purpose of clarification.

The Association for Moral and Social Hygiene, the International Abolitionist Federation, the International Alliance of Women and the International Bureau for the Suppression of Traffic in Women and Children were all in principle strongly in favour of the provision, but wanted a redrafting to make it more complete and clear. The International Criminal Police Commission stated that the provision is in accordance with the opinion of the majority of the States consulted in their capacity as members of that organization who consider that the regulation of prostitution should be abolished, as the practice has often led to abuses and has for the most part failed to achieve the desired ends.

The present text is proposed by the International Abolitionist Federation. In support of this text, the Federation has stated:

- (a) the word "police" is too limited since in many countries it is not the police that issue the order for registration;
- (b) the term "licence" is inaccurate. The prostitute's card or certificate is merely intended to prove that she has undergone medical examination or that she is inscribed on the register;
- (c) where registration of women has been suppressed, the police have frequently tended to re-establish a practically equivalent system by indirect means. Therefore, not only legal, but also customary regulatory provisions should be repealed;
- (d) registration has frequently been applied not only to professional prostitutes but also to women wrongly suspected of prostituting themselves.



Article 7

A similar provision appears in article 4 of the 1937 Draft Convention. No objections have been raised to this principle. The wording has been changed for the purpose of concentration and clarity, without changing the substance. The expression "subject to the requirements laid down by the domestic law" is believed to render superfluous the words "in countries where the principle of the international recognition of previous convictions is accepted", which appear in the original 1937 article.

Article 8

Similar provisions appear in article 6 of the 1937 Draft Convention. Extradition provisions are also included in article 5 of the 1910 Convention and article 4 of the 1921 Convention.

Articles 8, 9, 10 and 11 of the present Draft Convention contain together a series of provisions dealing with extradition and punishment for offences committed abroad. They are taken from the 1937 draft and the 1938 Convention on Terrorism, and are designed to fit in with the differing national views and laws with regard to extradition and foreign offences.

The United States Government in commenting on the equivalent provisions of the 1937 Draft Convention stated that there should always be a reciprocal obligation of extradition and that the United States law did not permit extradition save by the authority of a treaty or statute. There should be a definite obligation to extradite without any exception based upon nationality. Also the article should be revised in order to provide more explicit indication of the relative severity of the offences which shall be made a subject of extradition, so that numerous actions involving petty offences should be avoided.

The New Zealand Government indicated that it regarded the most satisfactory methods of prosecution as being the trial in the country where the offence was committed and extradition for that purpose rather than providing for trials of offences committed abroad.

This is, however, not the place for a general reform and the unification of the rules relating to extradition and trial of foreign offences, which are of course applicable to all crimes and not merely those covered by this Convention. The object of these provisions is to apply the existing, though differing rules, on this subject which are in operation in the various countries to the offences referred to in this Convention.

It is considered that the present article by omitting reference to article 3 has to some extent met the United States view that extradition for petty offences should be avoided.

#### Article 9

The article is similar to article 7 of the 1937 draft convention.

The Philippines Government considered that the second paragraph was superfluous, since the following article deals with the extradition of foreigners. The purpose of this stipulation is, however, to prevent nationals from being prosecuted and punished when in similar circumstances the extradition of a foreigner cannot be granted, i.e. in cases of offences of minor importance.

The Governments of the Philippines and the United States were in favour of the article, and the Government of the Union of South Africa stated that as the Union recognized the principle of the extradition of nationals, the article would not be applicable to the Union. The Government of Brazil is in favour of the article.

#### Article 10

This article reproduces the provisions of article 8 of the 1937 Draft Convention. It will be recalled that in the proposed revision of the 1937 Draft (E/CN.5/41 - page 28), it was suggested that paragraph (c) of this article should be omitted. Further consideration and examination of the repeated discussions of this provision referred to in the comments on this provision in document E/CN.5/41 has led the Secretariat to re-introduce the provision since the discussions indicate that countries which do not recognize the jurisdiction of their own courts to try foreigners for offences committed abroad, are generally unwilling to agree to a provision whereby their own nationals could be tried by the courts of a country other than that in which the offence was committed.

#### Article 11

The article reproduces the provisions of article 9 of the 1937 Draft. It is merely an ancillary provision required to complete the series of articles relating to extradition and trial in a country other than that in which the offence was committed.

#### Article 12

The article incorporates the provisions of article 14 of the 1937 Draft without change and is made necessary by the extension of criminal jurisdiction with respect to certain crimes, which is made by the provisions of this Convention.

#### Article 13

The article incorporates the provisions of article 15 of the 1937 Draft Convention and merely confirms that the definition of the criminal offences and the method for their prosecution and punishment is to be determined by the domestic law by each of the Parties to the Convention.

#### /Article 14

Article 14

This article corresponds to article 6 of the 1910 Convention and article 10 of the 1933 Convention.

The Czechoslovak Government has suggested that paragraph 2 of the article should be amended by adding a provision enabling letters of request to be dealt with by direct communication between the services referred to in article 15 for co-ordinating and centralizing the results of the investigation of offences under the Convention. Since, however, letters of request are a strictly judicial process, it does not seem appropriate to add an administrative organization to the list of judicial authorities charged with this function.

Article 15

The article is based on article 1 of the 1904 Agreement and article 11 of the 1937 Draft Convention. The provisions have however been redrafted in a short and somewhat simplified form from that contained in the latter.

Paragraph 2 employs the wording suggested in the proposed revision of the 1937 Draft Convention (E/CN.5/41 - page 32). No objections were raised to this provision.

Article 16

The article is based on article 7 of the 1910 Convention, article 3 of the 1933 Convention and article 12 of the 1937 Draft Convention. The provisions are however expressed in a shorter and more general form.

The present draft of this article omits the suggestion contained in the revision of the 1937 Draft (E/CN.5/41 - page 33 to 34) based on a proposal by the Czechoslovak Government, that the Secretary-General would receive copies of all notifications under the article and would be responsible for publishing a periodical bulletin containing such information. The suggestion that the Secretary-General would be responsible for immediately communicating such information to appropriate national authorities so as to lead to the apprehension of offenders, has also been omitted. It does not appear that the United Nations is in a position to perform such a function. More effective results would be obtained by retaining the original provisions, derived from the 1910 and the 1933 Conventions which call for direct communications between Governments. With respect to the proposed bulletin, it is considered that it would to a large extent contain the same information as the summaries of annual reports from Governments on traffic in women and children which the Secretariat will publish each year. It would be better, if necessary, to expand the scope of the said annual summaries.

Article 17

Article 17 of the revised 1937 Draft Convention (E/CN.5/41 - page 35)

read as follows:

1. Each of the High Contracting Parties agrees to encourage the establishment of a specialized social service in its territory for the prevention of prostitution and the rehabilitation of prostitutes.

2. Such services should co-ordinate the efforts for the prevention of prostitution and the rehabilitation of prostitutes. They should furthermore communicate to the Secretary-General of the United Nations information concerning effective methods which are used or contemplated for the social treatment of individual prostitutes or persons living on the verge of prostitution. The Secretary-General should place such information at the disposal of any of the High Contracting Parties or other Governments wishing to make use thereof.

The eighteen Governments who have commented on E/574 can here be grouped as follows:

Two have stated that they concur in the provisions or have no objections:

Bolivia, Brazil.

One has, without specifically mentioning article 17, stated that steps will be taken to organize social services for the prevention of prostitution:

Greece.

Eight have, without specifically mentioning article 17, stated either that they have no remarks on the draft in general, or that the draft is acceptable or that they are in agreement with the underlying principles:

Czechoslovakia, Dominican Republic, El Salvador, India, Norway, Pakistan, Philippines, Venezuela

Two have neither mentioned article 17 specifically nor otherwise expressed any opinion thereon:

Denmark, New Zealand.

Five have

Five have presented specific  
comments on article 17:

Canada, Netherlands, Union of  
South Africa, United Kingdom,  
United States.

The Canadian Government stated that the objective of the article is highly commendable, but that its inclusion in the Convention is somewhat premature. The Netherlands Government observed that there are in that country a number of private associations devoting themselves to services of the kind in question, and that, therefore, the following sentence should be added to paragraph 1 of the article: "in so far as this is not already provided for by private voluntary organizations."

The Government of the Union of South Africa stated that, while there is no specialized service of this kind in the Union, both state welfare services and voluntary subsidized services do exist.

The United Kingdom Government was of the opinion that the services in question could best be provided by close collaboration between existing social services and voluntary agencies.

The United States Government approved the idea of the establishment of services of the nature in question and stressed the importance of such services in the prevention of prostitution and the use of specialized social services for the rehabilitation of prostitutes. It would, however, in the opinion of the United States Government, be desirable to include this type of service within the framework of the general social services in each country, so as to avoid segregation of prostitutes.

The following non-government organizations have commented on the provisions in question:

Association for Moral and Social Hygiene;  
International Abolitionist Federation;  
International Alliance of Women;  
International Bureau for the Suppression of Traffic in Women and Children;  
International Criminal Police Commission.

The first four of these organizations were opposed to the inclusion of the article. They favoured the application of social services to the campaign against prostitution, but considered the provision to be outside the scope of an international convention. It was also considered that the article would tend to focus too much attention on prostitutes in relation to the whole problem of prostitution and to segregate prostitutes as a class. More attention should be given to men's responsibility for prostitution. It was moreover pointed out that the article was not clearly

/drafted

drafted, especially the phrase: "persons living on the verge of prostitution" was not clear.

The International Criminal Police Commission observed that one can only approve the introduction into the draft of an article which involves a modern concept of the problem of prostitution, stressing its social aspects.

It is believed that the formulation of the provision for social services contained in the present Draft, article 17, will to a large extent meet the observations mentioned above.

In the revised 1937 Draft Convention reference to medical treatment of venereal diseases was made in article 14 (E/CN.5/41 - page 32).

The Netherlands Government suggested the following addition: "in so far as medical care is not otherwise provided for". The Government of New Zealand stated that provisions for free treatment and for detention until cured were already in force in that country. The Canadian Government while not objecting to the substance of the article, considered it to be out of place in the Convention. The United States Government stated that no objection was perceived to the article.

Several non-governmental organizations expressed the opinion that this article was outside the scope of the international convention and strongly emphasized that treatment must not only be free, but also voluntary and confidential.

The Bureau for the Suppression of Traffic in Women and Children was of the opinion that the article was suitable for a future convention, provided that the treatment would be voluntary and confidential.

The International Criminal Police Commission stated that the provision was desirable in order to prevent the spread of venereal diseases. The medical care should be connected with social services.

The Secretariat is of the opinion that if the Convention is to deal at all with the social aspect of the problem of prostitution and particularly the rehabilitation of prostitutes, a provision of this nature is not outside its scope. Medical care and social rehabilitation should go hand in hand. The provision has been redrafted and incorporated in the proposed article dealing with social services.

The provisions of article 17 in the present draft are in line with the recommendation made by the Economic and Social Council in the second part of its resolution No. 155 (VII) E, see page 3 above.

#### Article 18

The article is based on article 2 of the 1904 Agreement and article 7 of the 1921 Convention and is intended to combine the substance of both.



Some small changes have been made in the text of these provisions, thus, the protective measures in question have been extended to persons of either sex.

#### Article 19

This article is based on articles 3, 4 and 5 of the 1904 Agreement. The term "persons" has been substituted for "women and girls" in order to comply with the principles of the new Draft Convention.

A provision has been included in paragraph 3 to the effect that repatriation must be in the interest of the person to be repatriated.

#### Article 20

The article is based on article 6 of the 1904 Agreement and article 6 of the 1921 Convention. Those provisions, however, relate only to employment agencies dealing with employment abroad. In view of the extended scope of the new draft which deals also with purely domestic offences, it has been thought desirable to extend the supervision envisaged by those articles to all employment agencies. Also the protection has been extended to persons of either sex and of full age.

#### Article 21

The provisions of this article are derived from those of article 4 of the 1910 Convention, but provide for the centralization of information regarding laws on the subject of the Convention in the Secretariat of the United Nations, which will be responsible for communicating it to Parties to the Convention.

#### Articles 22 to 31

These articles replace the formal provisions previously contained in articles 16 to 24 of the 1937 Draft Convention and in the formal provisions of the previous Conventions. These articles follow what is now the general practice with regard to the Conventions adopted under the auspices of the United Nations. It is clearly desirable that a uniform practice should be followed by the United Nations with regard to such matters.

A few points, however, require special mention:

Article 22 of the present Draft provides for the reference of all disputes relating to the interpretation or application of the Convention which cannot be settled by diplomatic means, to the International Court of Justice. This form has been adopted in conformity with the policy laid down by the General Assembly in resolution 171 (II).

Article 23 contains the same provisions as were suggested in article 22 of the revised 1937 Draft (E/CN.5/41 - page 39) by which it would be possible for the Free Territory of Trieste and for any Trust Territory administered by the United Nations to become Parties to the Convention.

/Article 26

Article 26 deals with the same problem as article 20 of the 1937 Draft Convention. It will be recalled that the question of applicability to dependent territories has been the subject of considerable discussion and that the comments on article 25 of the revised 1937 Draft Convention which corresponds to article 20 of the original draft recounts some of the discussions on this subject (E/CN.5/41 - page 42). Since the preparation of that document, however, the matter has been settled by the Third Committee of the General Assembly, which has approved the form which is now set out in article 26 of the present Draft.\*

Another point requiring comment is the omission of the provisions which were contained in article 23 of the 1937 Draft Convention which provided a procedure for the holding of a conference to undertake a revision of the text of the Convention. These provisions have been omitted as serving no useful purpose in view of the facts that it is always open to any member of the United Nations to raise this subject either before the Social Commission or the Economic and Social Council and since those bodies are responsible for the promulgation of the present draft, it will seem more appropriate that any revision should be dealt with in the same way.

---

\* See article 8 of the Draft Protocol bringing certain drugs under international control, document A/666 of 5 October 1948 - page 5.

-----