

**A guide for national NGOs
to combat
child sexual exploitation
and abuse**

**INTERNATIONAL
MECHANISMS
ARE THERE TO BE USED**

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Introduction

Sexual exploitation and abuse of children were not new in 1996, when the first edition of this guide was published, and are certainly not new now after several global events have featured them prominently in the past few years. What might be new now is a shift in public perception to acknowledge the existence of the problems and to recognise that they constitute not only a massive violation of the rights of the victims, but also an unacceptable form of violence. This changed public perception has led to the development and adoption of new legal instruments and mechanisms at international, regional and national levels.

A new and solid body of research has also demonstrated that the consequences of child sexual abuse and violence have a far-reaching and long-lasting impact on the physical, psychological and emotional health and development of the victims.

At a time when social problems are often quantified in financial terms, we can be certain that it makes economic sense to prevent first and to treat urgently if we haven't been able to prevent.

Sexual exploitation and abuse of children crosses national and disciplinary borders. There are still no truly reliable statistics but we know that we are talking about millions of children who are still bought, sold, rented out, sexually abused and exploited everywhere. We need to harness all the tools at our disposal to combat this unacceptable scourge. If we don't, we are compromising the health and development of an increasing number of adults of the next generation. This, in turn will inevitably impact on the social and economic stability of future societies.

The NGO Group for the CRC, through its broad network of NGOs, has developed effective methods of working with the Office of the High Commissioner for Human Rights – the primary UN organ mandated to assist the UN human rights mechanisms. The Convention on the Rights of the Child (CRC) is particularly useful and effective in this process, not least because it is also almost unanimously ratified by governments.

Most human rights instruments and mechanisms can and should be utilised for very practical reasons:

- UN instruments represent an international consensus on human rights standards.
- Mechanisms have been developed to monitor governments' implementation of the instruments they have ratified.
- Both serve to combat the many human rights abuses perpetrated throughout the world.
- Many instruments and mechanisms contain special measures to protect the rights of children.
- Finally, and not least, they also offer avenues for redress in situations when national institutions have proved to be ineffectual.

This brochure is targeting national groups, associations and NGOs active in the field of child protection and child rights. It explains briefly how to access and use relevant UN instruments and mechanisms. We hope it will prove to be a valuable tool for all practitioners, including those working in the broader areas of health, education and legal reform. Of course, it is only a beginning.

The content, which has been reviewed by relevant UN agencies and NGOs with knowledge and competence on the issues, only provides brief and general guidelines. We hope that this information will be translated into local languages and adapted to local contexts.

NGOs need to keep in mind that there are also excellent regional treaties and conventions we haven't detailed here and we invite national or regional networks and coalitions to develop – and share with us - guidelines for instruments relevant to their particular region and to make them widely accessible to their partners and collaborators.

The regional organs which have generated or monitor these treaties are listed at the end of the brochure with contact details.

In conclusion, we would also like to emphasise that international instruments and monitoring mechanisms can never replace national ones. The main purpose of this brochure is to help national NGOs see how they can use international mechanisms to ensure that their governments translate international instruments into national policies and programmes. International instruments also provide NGOs with effective tools to monitor national implementation.

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The problem

Sexual exploitation, abuse and violence are complex multi-faceted issues and NGOs need to consider a whole range of entry points to deal with specific situations depending on the context: the most accessible avenue for redress, the urgency of the situation, etc. Following are some examples which are not in order of priority.

- Child labourers and young domestic workers are frequently used for the sexual gratification of the employers and other adults.
- Children are sexually abused within the family.
- Children are used as attractions in sex tourism. Their sexual exploitation may represent a considerable part of the gross national product of some countries.
- Children are abused within the context of harmful cultural or traditional practices such as early marriages.
- Children in situations of armed conflicts, displacement, migration, pandemics such as HIV/AIDS or natural catastrophes, etc. are particularly vulnerable to all forms of sexual exploitation and violence.
- Local child prostitution - organised or random - exists in most countries of the world. It is exacerbated by economic and social upheaval, extreme poverty, deprivation, excessive consumerism and the mistaken belief that sex with children presents a lower risk of HIV infection or, indeed serves as a cure.
- Some adoptions are used as a pretext to buy children for the sex trade.
- The advertising arm of the sex industry – pornography – is increasingly using children to promote the trade.
- Finally, the growing commercialisation and trivialisation of sexuality has increased the threshold of public tolerance for sex with children.

United Nations human rights

The reporting system

Principles and purpose

A most important aspect of the promotion and protection of human rights is the international supervision (monitoring, control) of the implementation of legal norms and standards adhered to by states (States Parties).

The basic principles of this system are enshrined in the Charter of the United Nations:

We the people of the United Nations determined ... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.

The purposes are defined as follows:

To achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for the fundamental freedoms for all without distinction as to race, sex, language, or religion.

Organisation of the supervisory procedures

Supervisory procedures ensuring that states abide by the commitments they have made in ratifying international treaties (conventions, instruments, covenant) serve many purposes. Some have an advisory function in helping to improve national policies, while others may trigger international action to assist them in fulfilling their commitments.

When the implementation procedures focus on non-compliance with international standards, they have a corrective function. Others provide relief or remedies to victimised persons or groups. Most of these procedures have the common goal of preventing the worsening of particular violations of human rights.

There are **two types of supervisory (or enforcement) mechanisms** to correct, remedy and/or prevent human rights abuses and violations.

1. Those specifically provided by an international legal instrument are only operative with respect to States Parties which have ratified the

particular legal instrument and are generally permanent. They are called “**treaty-based**” enforcement mechanisms”.

2. The second type of mechanisms, **charter-based** procedures, results from the decision – usually a resolution – of a policy organ and reflects the views of its membership. The legal basis of these procedures is the Charter of the United Nations. There are two charter-based bodies:
 - The Commission on Human Rights
 - The Sub-Commission on the Promotion and Protection of Human Rights which reports to the Commission

Treaty-based mechanisms

The treaty-based mechanisms fall into two groups:

I. The periodic supervisory system is carried out through a regular **reporting process** first introduced by the ILO in its original Constitution and later expanded through various amendments. The reports are submitted by governments to committees of independent experts – the **treaty bodies** – established under the respective international human rights treaties. This procedure is non-contentious in nature and based on “constructive dialogue”.

The committees assess and review progress and difficulties in the national implementation of the treaty concerned and issue recommendations and observations.

Six of the seven international instruments have regular supervisory mechanisms (treaty bodies). All of these treaty bodies offer national NGOs an opportunity to contribute to the reviewing process thus strengthening the human rights principle of government accountability.

The **seven treaties** are:

- *The International Covenant on Economic, Social and Cultural Rights*
- *The International Covenant on Civil and Political Rights*
- *The International Convention on the Elimination of All Forms of Racial Discrimination*
- *The Convention on the Elimination of all Forms of Discrimination against Women*
- *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*
- *The Convention on the Rights of the Child*
- *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.*

The **six treaty-based bodies**

(the Migrant Workers Convention has no supervisory mechanism)

- *Committee against Torture*
- *Committee on Economic, Social and Cultural Rights*
- *Committee on the Elimination of Discrimination against Women*
- *Committee on the Elimination of Racial Discrimination*
- *Committee on the Rights of the Child*
- *Human Rights Committee*

Some treaty bodies have adopted **General Comments or Recommendations** to interpret the applicability and content of specific rights contained in the treaty they monitor, this in turn controls the nature and content of the States Parties obligations. The General Comments or Recommendations proceed from the treaty body's experience in examining the States Parties reports and seek to facilitate and promote the application of human rights treaties.

Protocols are optional complements to an already existing treaty. Normally, only the signatories to the treaty itself can become parties, however, there are exceptions where a state has ratified a protocol and not the main treaty.

II. Special procedures serving as complaint mechanisms can be set in motion through petitions or complaints – **communications** – from individuals or groups having been victims of alleged violations of rights by State Parties. These procedures, handled through the treaty bodies, have a **quasi-judicial character** in the sense that they deal with a State Party's non-compliance to a particular human rights treaty and both parties are given an opportunity to present their case.

Both, the periodic reporting process and the special procedures are treaty-based mechanisms.

Charter-based mechanisms

Within the charter-based mechanisms, there are also special procedures, established by charter-based bodies dealing either with human rights situations in particular countries – **the country approach** – or with practices affecting large numbers of people in many countries or territories – **the thematic approach**.

These charter-based mechanisms are special rapporteurs and working groups with a finite mandate subject to renewal as long as they are considered necessary (i.e. apartheid). They have a moral impact and tend to reflect the political will of the membership of the particular policy organ

which has established them. (the Commission on Human Rights or its Sub-Commission).

NGOs are essentially concerned with **International treaties** (international conventions, instruments, covenants) which are legally binding for states which have ratified them.

We have only listed treaties with implementation mechanisms as they offer NGOs the best prospects of being heard. Many other human rights treaties have no such mechanisms but are still listed in this guide as they are felt to be relevant.

The treaty adoption process

A treaty creates obligations on **States Parties** (a state which has signed and ratified a treaty) and is governed by international law. The two stages of the adoption process are:

- The **signature** of a convention by a state is a transitional, non-binding commitment before its formal adoption. However, signature confers obligations not to act against the principles of the treaty.
- **Ratification** is the act by which the highest authorities of a state commit the country to respect the convention and recognise its implementation obligations.

Once the convention has been ratified it should then be integrated into the national legal system and be implemented by all the relevant organs of government. States Parties which have objections to a particular article of a treaty can make **reservations** to a particular clause or file **declarations** justifying a specific interpretation.

The activities, programmes and meeting schedules of the Office of the High Commissioner for Human Rights (OHCHR), including those of all treaty bodies, are listed on the Office's web site. All treaty bodies meet in Geneva with the exception of CEDAW which meets in New York.

www.ohchr.org

Regional mechanisms

National NGOs also need to keep in mind that there exists excellent regional instruments which might give them opportunities to add weight to their lobbying, advocacy and implementation activities at national level. Some are general human rights instruments containing clauses relevant to gender issues and child rights; others are specifically designed to strengthen child rights.

We will not provide details about regional instruments as they vary greatly in emphasis and legal status from one region to another. This activity should be undertaken at regional and national levels.

The CRC

The Convention on the Rights of the Child

The CRC has been ratified by 191 countries and signed by 193¹ This represents nearly universal ratification. The Convention is the principal legal reference in the combat against the sexual exploitation and abuse of children.

In January 2002 the Optional Protocol (to the CRC) on Sale of Children, Child Prostitution and Child Pornography (see p.15) entered into force and offered additional protective measures to an already considerable arsenal of norms.

When NGOs use the CRC, they should remember that no article should be considered in isolation: the Convention is indivisible and its articles are interdependent and articulated around the following basic principles:

- Non discrimination (Article 2)
- Best interest of the child (Article 3)
- Survival and development (Article 6)
- Respect for the views of the child (Article 12)

Who is a child?

According to article 1 of the CRC, a child is “...every human being below the age of 18 (unless national laws otherwise establish an earlier age of majority)”. More recently, new international instruments have unambiguously established 18 as the cut off age to define a child entitled to special protective measures. This is the case of ILO Convention 182 on the worst forms of child labour and the Protocol to suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention on Transnational Organised Crime.

¹ As of January 2003

In the context of the definition of a child, a frequently ambiguous and contentious issue when dealing with child sexual exploitation and abuse is the “**age of sexual consent**” at which children are deemed to be able to **consent to sexual activity**. National legislation can vary from 12 to 18 years of age. However, although the drafters of the CRC could not agree on the formulation of an article dealing with this issue, it is evident that “**sexual activity**” cannot be synonymous to “**sexual exploitation or abuse**” and it is imperative to remember that the **protection and guarantees extended by article 34, and indeed by all other CRC articles, apply to all children under the age of 18**.

The Convention refers to a child’s right to protection from any aspects of sexual exploitation, abuse or violence, both explicitly and implicitly in a whole range of articles.

- *all forms of sexual exploitation and abuse* are covered in articles 34 and 35 (these two articles are also very clear with regard to the obligations of the states);
- *all other forms of exploitation prejudicial any aspects of the child’s welfare* are covered in article 36;
- *torture or other cruel, inhuman or degrading treatment* in article 37;
- *protection and care of children in armed conflict* in article 38;
- **States Parties’ obligations regarding rehabilitation and recovery measures** for child victims of any form of neglect, exploitation, or abuse in article 39.
- article 19 deals with violence, injury or abuse of children **while in the care of parents or guardians**;
- article 32 relates to economic exploitation and child labour, including **hazardous or harmful work** and **the worst forms of child labour** in line with ILO Conventions 182 and 138 (see p 18).
- Finally, articles 43, 44 and 45 establish specific **modalities for monitoring the implementation of the Convention**.

Article 19. 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.

Article 32. Recognizes the right of the child to be protected from performing any work that is likely to be hazardous or harmful to the child’s health or physical, mental, spiritual, moral or social development and states are bound to provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article. (cf. ILO Convention 182 and 138, p.18)

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 unilateral 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.*

(See P. 36 for the UN “Recommended Principles and Guidelines on Human Rights and Human Trafficking”)

Article 36. *States Parties shall protect the child against all other forms of exploitation prejudicial to any aspect of the child's welfare.*

Article 37. *States Parties shall ensure that:*

a) No child is subjected to torture or other cruel, inhuman or degrading treatment or punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

a) No child shall be deprived of his or her liberty unlawfully or arbitrarily

c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person.

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.

Article 38 ensures respect for rules of international humanitarian law in cases of armed conflict such as the recruitment of children under age fifteen or their use in hostilities. (see p.34 for a summary of the study on “The Impact of Armed conflict on Children”)

Article 39 ensures that States take all appropriate measures to promote the physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment or armed conflict.

Article 43 stipulates that a Committee on the Rights of the Child be established to achieve the realisation of the Convention obligations.

Article 43, sub-section 11 states: "the Secretary General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee".

Other closely related articles, not listed above, deal with measures applicable to particularly vulnerable children and may be relevant to combat child sexual exploitation and abuse.

Art. 18: parental responsibilities;

Art. 20: alternative care;

Art. 21: adoption;

Art. 22: refugee children;

Art. 23: disabled children;

Art. 24: health care;

Art. 27: adequate standard of living;

Art. 28: right to education;

Art. 33: drug abuse

The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography was adopted in 2000 and entered into force on 18 January 2002. Its definitions of the three violations of child's rights covered – sale of children, child prostitution and child pornography - can enhance international cooperation for their penalisation.

Further, the Protocol also **strengthens a State Party jurisdiction** over offences covered by the Protocol (sale of children, child prostitution and child pornography) when either the offender or the victim are national or resident of that state. The Protocol will be monitored by the Committee on the Rights of the Child. Guidelines for reporting are available on:

<http://www.ohchr.org/html/menu2/6/crc.htm>

Other UN instruments

Many of the UN mechanisms designed to implement a variety of UN conventions can be used in cases of child abuse and the conventions themselves serve as legal references. In addition, since a child can suffer from multiple abuses, NGOs may find it useful to consider all the relevant international instruments and mechanisms. For example, the International Labour Organisation (ILO) has conventions relating to child labour which may be useful and effective when the abuse and exploitation of the child involves economic aspects.

Many states have their own national and local laws to deal with child sexual exploitation and abuse following the pattern of international instruments; this legislation provides a legal base for intervening.

Although states are not legally bound by conventions they have not ratified, they do not appreciate being singled out by the international community as seeming to be indifferent to the sexual exploitation of children when the issue comes up in the media or international and regional forums. NGOs can make good use of countries' sensitivity in lobbying.

The Universal Declaration of Human Rights (1948)

As all declarations, it is not a legally binding document but it sets the stage for most of the international instruments listed in this brochure. Its main principles have acquired the status of customary law to be respected by all states.

Article 4.- No one shall be held in slavery or servitude. Slavery and the slave trade shall be prohibited in all its forms.

Article 5.- No one shall be subjected to torture or to cruel, inhuman or degrading treatment.

The following conventions offer international legal protection against abuses of human rights. The first two instruments provide a broad definition of slavery and slavery-like practices such as child domestic workers who are frequently exposed to sexual abuse; early child marriage; children in armed conflict particularly vulnerable to sexual exploitation, violence, trafficking in persons for prostitution and pornography, illegal adoptions, etc.

All the instruments listed in this section, unless otherwise specified, can be accessed through the web site of the Office of the High Commissioner for Human Rights: www.ohchr.org

The Slavery Convention (1926) and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Practices Similar to Slavery (1956)

The 1956 Supplementary Convention broadens the scope of the definitions included in the 1926 Convention to include practices and institutions such as “servile” forms of marriage and the exploitation of children and adolescents. It has been ratified by 106 States.

Article 1 of the Supplementary Convention of 1956 deals specifically with children "under 18" years.

Article 2 requires States to set minimum ages for marriage. Another section covers "institutions and practices similar to slavery".

The Convention on the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others (1949)

This Convention deals with traffic in persons (adults and children) and the exploitation of prostitution and it clearly designates the procurer (pimp), rather than the (victim) prostitute, as the target of criminalisation. States are required to introduce measures designed to prevent prostitution and to rehabilitate prostitutes. The 74 states which have ratified this Convention are also required to keep in check the traffic in persons (including children) of either sex for the purpose of prostitution.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted in November 2000).

The Convention and its protocols (there are two other Protocols) are not “human rights” instruments per se. The “trafficking protocol” (also referred to as the “Palermo protocol”) defines a child unambiguously as a person under 18, includes child protection and compensation measures and requires that State Parties take all appropriate action to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking (*art. 8.5*). Within one year of ratification, a Conference of State parties is to review the implementation of the Convention and of those of its Protocols which have been ratified. For information, contact the UN Centre for International Crime Prevention in Vienna: www.uncjin.org.

The International Covenant on Civil and Political Rights (1966)

Article 7.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

Article 8.

1. No one shall be held in slavery. Slavery and the slave trade in all its forms shall be prohibited.

2. No one shall be held in servitude.

The Convention on the Elimination of all Forms of Discrimination Against Women - CEDAW (1981)

This Convention can be useful in dealing with matters relevant to both women and girls, especially after the adoption of the **Beijing Platform for Action** (September 1995) which designates girls as a "*special area of concern*" and directs governments to support and promote the rights of "women and girls". Although the Beijing document has no binding legal force, the paragraphs on violence, trafficking in persons and human rights can be used to exercise moral pressure on states to respect commitments adopted by general international consensus.

Article 6. *State Parties shall take all appropriate measures including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.* This includes girls.

Unlike other treaty bodies which meet in Geneva, the Committee for the Elimination of Discrimination against Women (also called CEDAW) meets in New York and falls under the jurisdiction of the Division for the Advancement of Women (DAW) which was relocated in New York in 1993. Relevant information on: www.un/womenwatch/daw/cedaw

The Optional Protocol to CEDAW (2000) concerns the right to petition. Its two procedures reaffirm existing remedies available under other international human rights instruments. It also incorporates practices developed by international monitoring mechanisms in the past decades. Additionally, it recognises that women continue to face specific challenges in seeking redress for their grievances under general human rights mechanisms.

Article 2

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by the State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

The Rome Statute of the International Criminal Court (ICC)

In accordance with the Statute, the ICC has jurisdiction on two types of “crime” relevant to the protection of children from sexual abuse, exploitation or violence: ***crimes against humanity and war crimes***.

Article 7 of the Rome Statute, on Crimes against humanity includes in point **1. (g)** :

Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence of comparable gravity; and in point **1. (k)**:

Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Article 8 on War crimes include, in point **2. (b) (xxi)**:

Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

and in point 2 (b) (xxii): Committing rape, sexual slavery, enforced prostitution, forced pregnancy, (...) or any other form of sexual violence also constituting a grave breach of the Geneva Conventions.

The Court has jurisdiction over a *natural person* who will be criminally responsible and liable for punishment if that person

- 1. Commits the crimes covered by the Court as an individual, jointly with another or through another person.*
- 2. Orders solicits or induces the commission of such a crime.*
- 3. Aids abets or assists in the commission of a crime, including providing the means for its commission.*

Website: www.un.org/law/icc/statute/99_corr/2.htm

United Nations agencies

Some of the Specialised Agencies of the United Nations System have developed their own international treaties or conventions within the context of their mandate and expertise.

The Conventions of the International Labour Organisation

- **Conventions 29 and 105** deal with forced labour and its abolition. In Convention 29, forced or compulsory labour refer to all work or service exacted from any person under the threat of any penalty and for which *"the said person has not offered himself voluntarily"*.
- **Conventions 79 and 90** concern the night work of young persons. The first Convention prohibits night work for children under 14 years (or older if subjected to compulsory school attendance) for a period of 14 consecutive hours including the interval between 8 p.m. and 8 a.m. For those who are between 14 and 18 years of age, work is prohibited between 10 pm and 6 am (for a period of 12 consecutive hours). These may be useful in cases of commercial sexual exploitation of children in the sex trade.
- **Convention 138**, deals with minimum age and specifically complements Article 32 of the Convention on the Rights of the Child. It requires minimum age of 18 for hazardous work likely to impair the child's health, safety or morals. **Recommendation 146** supplements this Convention and offers a wide range of guidelines for action.
- **Convention 182**, was adopted in 1999. The aim of this flagship treaty on child labour is the immediate elimination of the worst forms of child labour encompassing slavery and slavery-like practices including forced recruitment in armed conflicts; trafficking, prostitution and pornography; illicit activities (e.g. production and trading of drugs) and hazardous work. Convention 182 defines a child as any person under 18, and requires immediate action from ratifying State Parties. It is supplemented by **Recommendation 190** which includes suggestions for measures of prevention, withdrawal and rehabilitation of victims.

Refugee and humanitarian law

Three international instruments deal with the rights and treatment of refugees: the **1951 Convention relating to the Status of Refugees**, its 1967 **Protocol** extending the definition of “refugees” and the 1967 **Declaration on Territorial Asylum**. The question of protection of children from sexual exploitation and abuse is dealt with as it relates to child labour and minimum age.

Humanitarian law concerns the laws of armed conflict and makes reference to the respect and the sexual integrity of civilians and prisoners.

Additionally, the four **1949 Geneva Conventions** and their **1977 Additional Protocols** cover children directly and indirectly through requirements regarding family unity, education, pregnant women and mothers of very young children.

The **Office of the United Nations High Commissioner for Refugees (UNHCR)**, conscious of the heightened vulnerability of refugee children, and particularly unaccompanied minors, has published “*Sexual Violence against Refugees: Guidelines on Prevention and Responses*”. It provides a detailed background, preventive measures and practical action in response to incidents of sexual violence. It is also the UN agency responsible for the monitoring of the implementation of the 1996 study on the impact of armed conflict on children by Graça Machel (see p.34)

UNHCR, in collaboration with NGOs, also initiated the **Action for Rights of Children (ARC)** project. Its primary goal is to increase the capacity of the Agency, Governments and NGO field staff to protect and care for children in emergency situations. Since 2001 a comprehensive resource pack has been produced including training modules on combating sexual abuse and exploitation.

Finally, the conclusions of the Executive Committee (Excom) of UNHCR constitute an important reference for refugee protection. Excom has developed many standards that appear in international refugee law. While these conclusions are not legally binding, they are widely recognised as an accurate representation of the views of the international community and this lends them strong persuasive authority.

Information on child protection in armed conflicts can be found on www.unhcr.ch as well as www.ohchr.org for relevant human rights texts.

For the Geneva Conventions, consult the website of the **International Committee of the Red Cross and Red Crescent** www.icrc.org

The mechanisms ---

How to use UN instruments

One way for national NGOs to be heard is to work with an international NGO (INGO) which has Consultative Status with the UN Economic and Social Council. This is a status granted to international organisations which fulfil the criteria laid down by the UN. It gives such organisations direct access to the UN system and the right to speak - as observers - at most UN meetings. If national NGOs become affiliated to an INGO they gain such access indirectly. Some of the major UN Conferences also grant national NGOs the right to attend as observers.

Since sexual exploitation usually involves a violation of many human rights, NGOs should take into consideration all international instruments and mechanisms. We have tried to list a broad range of those most useful.

National Groups, NGO coalitions and individual NGOs can use the Convention on the Rights of the Child as a tool to lobby for action at the national level.

Since the CRC has come into force, many countries have taken the opportunity to review their legislation regarding children's rights. Some have already enacted new laws and others have new legislation in the pipeline. National NGOs need to monitor this process closely. (See p. 41 for suggestions for national NGOs)

The United Nations has developed a number of mechanisms or treaty bodies for monitoring and implementing the Convention on the Rights of the Child and other conventions. This chapter attempts to outline their relevance and interrelationships. Of particular importance are the various ways in which national NGOs can use these instruments effectively and make the UN mechanisms work for them. Unless otherwise specified, NGOs can have access to all the following mechanisms through the Office of the High Commissioner for Human Rights in Geneva.

UNICEF

The United Nations' Children Fund, with its mandate based on the Convention on the Rights of the Child, is the UN body directly responsible for children's issues. Under policies and strategies for the protection of children's rights it supports efforts to combat child sexual exploitation and abuse through actions in more than 160 countries and through the *National Committees for UNICEF* in 37 industrialised countries.

The UNICEF *Innocenti Research Centre* in Florence, Italy, was established in 1988 to strengthen the research capacity of the United Nations' Children Fund and to support advocacy for children worldwide. The Centre (formally known as the International Child Development Centre) helps to identify and research current and future areas of UNICEF's work. Its prime objective is to improve international understanding of issues relating to children's rights and to help facilitate the global implementation of the Convention on the Rights of the Child. The Centre produces *The Innocenti Digests* to provide reliable and accessible information on specific child rights issues.

For information on UNICEF programmes and action related to sexual exploitation and violence consult the following site:

www.unicef.org/programme/protection/mainmenu.htm

For information on The Innocenti Research Centre, consult:

www.unicef-icdc.org

Office of the High Commissioner for Human Rights (OHCHR)

OHCHR has principal responsibility for United Nations human rights activities. It aims at ensuring the practical implementation of universally recognized human rights norms. OHCHR is designed to strengthen the United Nations human rights programme and to support the United Nations treaty monitoring bodies and special mechanisms established by the Commission on Human Rights.

OHCHR prepares strategies for legal reforms and programme implementation. It provides advice, information, documentation and transmits appeals and/or correspondence to the appropriate UN human rights mechanisms and to the UN High Commissioner for Human Rights

All UN human rights mechanisms listed below (with the exception of those specifically indicated) can be accessed through the Office's web site:

www.ohchr.org

Committee on the Rights of the Child

It is composed of eighteen independent experts to monitor the implementation of the Convention on the Rights of the Child. States Parties must report regularly on the measures they have adopted and may be invited to explain specific situations or supply additional information. Other UN agencies, individual NGOs or coalitions of NGOs have the right to supply their own country reports. These should be submitted six months prior to the session. The NGO Group for the Convention on the Rights of the Child has been facilitating the submission of alternative reports from national NGO coalitions to provide complementary information to the Committee on the Rights of the Child. The Group's Focal Point on sexual exploitation, abuse and violence provides additional information through its national networks and partners on the specific implementation of articles relevant to sexual abuse, exploitation and violence as well as on the implementation of the Stockholm and Yokohama outcomes (see pp. 31-33), including those from the regions.

The Committee has adopted several *General Comments* which may be relevant to various aspects of child sexual exploitation and abuse, namely those on education, adolescent health and development and on the minimum age of penal responsibility.

Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography

The mandate of this Special Rapporteur was created by the UN Commission on Human Rights Resolution 1990/68. He is required to investigate the sale of children (including trafficking) and the sexual exploitation of children around the world and to submit reports to the Commission (and to the UN General Assembly till 2000) and make recommendations for the protection of children. The Rapporteur undertakes fact-finding missions to investigate specific trends and situations, conducts workshops and is available for consultations. In recent years, the mandate has also dealt increasingly with cases of non-commercial sexual abuse and exploitation. NGOs are encouraged to contact him through the Office of the High Commissioner for Human Rights with information about individual violations, situations of concern, as well as suggestions on thematic areas needing particular attention. In April 2002 an individual complaint procedure was established. The confidential information form is available on the Special Rapporteur web site in all six UN languages.

He may be contacted directly through the OHCHR:

www.ohchr.org/children/rapporteur.htm

or directly for the forms: www.ohchr.org/children/contact.htm

Special Rapporteur on Violence against Women, its Causes and Consequences

The Special Rapporteur's mandate covers all forms of gender violence which affect women through their life-cycle including girls. Methods of work are similar to those of the Special Rapporteur on the Sale of Children: she submits an annual report to the Commission on Human Rights, undertakes fact-finding missions and takes action on individual complaints. The 1995 report provided a thorough review of the types of gender-based violence girls are subjected to in all societies. Since then subsequent reports have made recommendations on, *inter alia*, domestic violence, rape in the community, trafficking of women and girls and harmful traditional practices. The last report of the present mandate (2003) includes a full recapitulative summary of all previous reports and complaints received. The Special Rapporteur may be contacted directly through the Office of the High Commissioner on Human Rights or

www.ohchr.org/women/focus-violence.html and for confidential information forms:

<http://www.ohchr.org/html/menu2/7/b/women/womform.htm>

United Nations Development Fund for Women (UNIFEM)

UNIFEM promotes women's empowerment and gender equality. It works to ensure the participation of women at all levels of development planning and practice and acts as a catalyst within the UN System, supporting efforts that link the needs and concerns of women to all critical issues on the national, regional and global agendas.

www.unifem.undp.org

Other Special Rapporteurs

Other Special Rapporteurs are appointed by the Sub-Commission on the Promotion and Protection of Human Rights. The following **Thematic Rapporteurs**, may be useful to NGOs dealing with child sexual exploitation and abuse.

a) the Special Rapporteur on traditional practices affecting the health of women and the girl child; b) the Special Rapporteur on situations of systematic rape, sexual slavery and slavery-like practices during periods of armed conflicts

Country Rapporteurs, may be equally useful to national NGOs working in the countries covered which, at present, are: *Afghanistan; Burundi; Iraq; Myanmar; the Palestinian Territories occupied since 1967; The Territory of the Former Yugoslavia*. All can be contacted through OHCHR

Commission on Human Rights

The Commission, composed of 53 states, meets annually and serves as a forum for Governments, NGOs and observers on any matter relating to human rights concerns. It adopts resolutions which are binding on member states. It reviews, adopts or rejects the work and proposals from other human rights mechanisms, treaty bodies, working groups and a network of individual experts, representatives and rapporteurs mandated to report on specific issues. National NGOs can make statements through international NGOs with consultative status on issues they may wish to raise.

The Commission can also meet exceptionally in Special Sessions upon the request of the majority of its member states

Sub-Commission on the Promotion and Protection of Human Rights

Established by the Commission on Human Rights to which it reports, it serves as a think-tank for its parent body, carrying out studies on human rights issues and making recommendations to the Commission. National NGOs may report human rights violations through international NGOs with consultative status which, in turn, report these through statements during discussions of the particular issues. Specific references to states are permitted only if the issue is carefully documented.

Working Group on Contemporary Forms of Slavery

A subsidiary body of the Sub-Commission, it is composed of five experts. States submit reports on the steps they have taken to implement the Slavery and Trafficking Conventions. This Working Group works closely with international NGOs (which frequently involve national and local NGOs) as well as with the UN specialised agencies, particularly the ILO, UNICEF, WHO as well as INTERPOL and regional bodies such as the Council of Europe. It monitors the implementation of relevant human rights conventions and of the *Programme of Action on the Sale of Children, Child Prostitution and Child Pornography; the Programme of Action on Child Labour and the Programme of Action on the Prevention of Traffic in Persons and the Exploitation of the Prostitution of Others*.

Working Group on Enforced or Involuntary Disappearances

Created by the Commission on Human Rights, this Group is composed of five experts from each of the regional groupings. It deals with human rights violations on a purely humanitarian basis, irrespective of the ratification by Governments of existing legal instruments. It acts as a channel between the families of missing persons and Governments. It has developed an urgent

action procedure under which the Working Group's Chairman is authorized to process cases even when the Working Group is not in session. Thus delays are avoided in emergency situations.

ILO monitoring mechanism for Convention 182

Although NGOs are not a core part of the ILO tripartite reporting process (involving governments, employers and workers), they can still contribute to it. Government reports are reviewed once a year by a *Committee of Experts* and are helped by information received from reliable sources (i.e. trade unions, UN). NGOs can make submissions through workers organisations or employer groups. They can also access IPEC directly (see below). Finally, NGOs can access information on State Parties reports or comments from ILO bodies.

In extreme cases, *ad hoc* procedures to examine allegations of non compliance may be initiated by employers' or workers' organisations or by State Parties to the same ILO Convention.

Finally, the 1998 ILO Declaration on Fundamental Principles commits all ILO member States to the principle of the elimination of child labour, including its worst forms such as sexual exploitation, even without ratifying the specific Convention. Non-ratifying countries must report on this compliance every four year.

<http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN>

ILO International Programme on the Elimination of Child Labour (IPEC)

The ILO/IPEC mandate includes child prostitution and trafficking of children. NGOs can access IPEC directly. ILO/IPEC works with governments, workers, employers' organisations, NGOs, schools, the family and the children themselves. It may prove quite useful to NGOs in countries in which IPEC is carrying out projects.

www.ilo.org/childlabour

World Health Organization (WHO)

The WHO has extensive programmes on woman's and child health – physical and psychological - both of which are relevant to national NGO dealing with child sexual abuse. Further, within the context of its *Global Forum for Health Research* – the Organization has produced a report on its Consultation on Sexual Violence against Women (Melbourne Australia – 2000) entitled *Eliminating Sexual Violence Against Women – Toward a Global Initiative*. In 2002, WHO published its *World Report on Violence and Health*. The report defines violence in a broad sense (including sexual

violence), with a human rights perspective and includes an examination of the violence perpetrated against children and youth.

www.who.org

Beyond the UN System

The International Organization for Migration (IOM)

While not part of the United Nations System, IOM maintains close working relations with UN bodies and specialised agencies. IOM works in partnership with a wide range of international and non-governmental organisations. Its counter-trafficking activities are geared toward the prevention of trafficking in persons, particularly women and children. They include:

- Carrying out information campaigns.
- Providing counselling services.
- Conducting research on migrant trafficking.
- Providing return and reintegration assistance to victims of trafficking.
- Helping governments to improve their legal systems and technical capacities to fight trafficking.

Web site: www.iom.org

The World Tourism Organisation (WTO)

WTO is the first private sector group to develop ethical standards and establish measures to guide the tourist industry in its fight against child sex tourism. It works closely with NGOs and other international organisations.

The Tourism Bill of Rights (1985)

Adopted by the World Tourism Organisation (WTO)

Article IV

e) States should also prevent any possibility of using tourism to exploit others for prostitution purposes.

Article VIII

1. Tourism professionals and suppliers of tourism and travel services can make a positive contribution to tourism development and to the implementation of the provisions of this Bill of Rights...

2. They should, in particular refrain from encouraging the use of tourism for all forms of exploitation of others

The Global Code of Ethics for Tourism (1999)

The code includes 10 articles outlining the "rules of the game" for destinations, governments, tour operators, developers, travel agents,

workers and travellers themselves. It is the first time that a code of ethics adopted by the private sector includes an enforcement mechanism.

Article 2 states: *“The exploitation of human beings in any form, particularly sexual, especially when applied to children, conflicts with the fundamental aims of tourism and is the negation of tourism; as such, in accordance with international law, it should be energetically combated with the cooperation of all the States concerned and penalized without concession by the national legislation of both the countries visited and the countries of the perpetrators of these acts, even when they are carried out abroad.”*

The World Committee on Tourism Ethics

This Committee of the World Tourism Organisation, which should be operational after its endorsement by the Executive Council in Madrid in June 2003, will serve as an impartial third body to settle any disputes concerning the application or interpretation of the Global Code of Ethics for Tourism. It will be designated by each of WTO’s six regional commissions and the WTO Business Council. The Committee should meet, in principle, once a year or whenever a dispute is referred to it for settlement.

WTO Task Force to Protect Children from Sexual Exploitation in Tourism

This is a global action platform comprising representatives of governments, the tourism industry, international organisations, NGOs and media associations whose aim is to prevent, identify and eradicate the sexual exploitation of children in tourism and promote socially responsible and sustainable tourism. The WTO has also joined forces with NGO partners in an international campaign against sexual exploitation of children in tourism.

www.world-tourism.org/protect_children/index.htm

Global events and guidelines ---

Implementation tools

The **First World Congress against the Commercial Sexual Exploitation of Children**, Stockholm 1996, adopted the Stockholm Declaration and Agenda for Action which provided comprehensive guidelines to combat the sexual exploitation of children and calls upon governments to develop their own national plans of action. The **Second World Congress**, Yokohama 2001, reaffirmed the Stockholm Agenda for Action. Its final report also includes regional recommendations and commitments (see the following pages for summaries of the Stockholm and Yokohama recommendations). Although the recommendations adopted by both Congresses are not legally binding, they represent strong government commitments and, as such, they are powerful lobbying tools for national NGOs.

All documents for both Congresses can be found on:

www.csecworldcongress.org

The Agenda for Action provides detailed proposals on:

- Coordination and cooperation
- Prevention
- Protection
- Recovery and reintegration
- Child participation

Further, it identifies the Committee on the Rights of the Child as a catalyst, with a key role to combat child sexual exploitation and abuse.

The Stockholm World Congress Declaration (1996)

The First World Congress against Commercial Sexual Exploitation of Children in its Declaration calls on States, in cooperation with national and international organisations and civil society, to:

- *accord high priority to action against the commercial sexual exploitation of children and allocate adequate resources for this purpose;*
- *promote stronger cooperation between States and all sectors of society to prevent children from entering the sex trade and to strengthen the role of families to protecting children against commercial sexual exploitation of children;*
- *criminalize the commercial sexual exploitation of children, as well as other forms of sexual exploitation of children, and condemn and penalize all those offenders involved, whether local or foreign, while ensuring that the child victims of this practice are not penalized;*
- *review and revise, where appropriate, laws, policies, programmes and practices to eliminate the commercial sexual exploitation of children;*
- *enforce laws, policies and programmes to protect children from commercial sexual exploitation and strengthen communication and cooperation between law enforcement authorities;*
- *promote the adoption, implementation and dissemination of laws, policies and programmes supported by relevant regional, national and local mechanisms against the commercial sexual exploitation of children;*
- *develop and implement comprehensive gender-sensitive plans and programmes to prevent the commercial sexual exploitation of children, to protect and assist the child victims and to facilitate their recovery and reintegration into society;*
- *create a climate through education, social mobilisation, and development activities to ensure that parents and other legally responsible for children are able to fulfil their rights, duties and responsibilities to protect children from commercial sexual exploitation of children;*
- *mobilise political and other partners, national and international communities, including inter-governmental organisations and non-governmental organisations, to assist countries in eliminating the commercial sexual exploitation of children; and*
- *enhance the role of popular participation, including that of children, in preventing and eliminating the commercial sexual exploitation of children.*

The Yokohama Global Commitment (2001)

After reviewing development since the First World Congress, the statement adopted during the Second World Congress reaffirms:

...as our primary consideration, the protection and promotion of the interest and the rights of the child to be protected from all forms of sexual exploitation...

The second part of the statement contains the following Global Commitment:

We have come together to:

reiterate the importance and the call for more effective implementation of the Convention on the Rights of the Child by States Parties and related instruments, and underline our belief in the rights of children to be protected from commercial sexual exploitation in the form of child prostitution, child pornography and trafficking of children for sexual purposes;

encourage early ratification of the relevant international instruments, in particular ILO Convention No 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;

reaffirm our commitment to build a culture of respect for all persons based upon the principle of non-discrimination and to eliminate the commercial sexual exploitation of children, in particular by sharing the lessons learnt since the First World Congress, and by improving cooperation in this regard;

recommit to the Declaration and Agenda for Action of the First World Congress (...), and in particular to developing national agendas, strategies or plans of action, designated focal points and comprehensive gender-disaggregated data collection, and effective implementation of measures, including child-rights laws and law enforcement;

reinforce our efforts against commercial sexual exploitation of children, in particular by addressing root causes that put children at risk of exploitation, such as poverty, inequality, discrimination, persecution, violence, armed conflicts, HIV/AIDS, dysfunctioning families, the demand factor, criminality, and violations of the rights of the child, through comprehensive measures, including improved educational access, especially for girls, anti-poverty programmes, social support measures, public awareness-raising, physical and psychological recovery and social
I reintegration of child victims, and action to criminalize the commercial sexual exploitation of children in all its forms and in accordance with the relevant international instruments, while not criminalizing the child victims

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Yokohama Global Commitment (2001)

(Continued)

emphasise that the way forward is to promote closer networking among key actors to combat the commercial sexual exploitation of children at the international, inter-regional, regional/sub-regional, bilateral, national and local levels, in particular, among communities and the judicial, immigration and police authorities, as well as through initiatives interlinking the young people themselves;

ensure adequate resource allocation to counter the commercial sexual exploitation of children, and to promote education and information to protect children from sexual exploitation, including education and training programmes on the rights of the child addressed to children, parents, law enforcers, service providers and other key actors;

reiterate that an essential way of sustaining global action is through regional/sub-regional and national agendas, strategies or plans of action that build on regional/sub-regional and national monitoring mechanisms and through strengthening and reviewing existing international mechanisms with a monitoring process, to improve their effectiveness as well as the follow-up of their recommendations and to identify any reforms that may be required;

take adequate measures to address negative aspects of new technologies, in particular child pornography on the internet, while recognising the potential of new technologies for the protection of children from commercial sexual exploitation, through dissemination and exchange of information and networking among partners;

reaffirm the importance of the family and **strengthen** social protection of children, young people and families through awareness-raising campaigns and community-based surveillance/monitoring of commercial sexual exploitation of children; commit ourselves to promoting cooperation at all levels and to combining efforts to eliminate all forms of sexual exploitation and sexual abuse of children worldwide;

declare that the sexual exploitation of children must not be tolerated and **pledge** to act accordingly.

The “Regional Outcome” documents adopted by regional preparatory conferences, appended to the Yokohama Global Commitment, are extremely useful for regional and national NGOs to follow-up the implementation of recommendations deemed priority issues by each region.

The Impact of Armed Conflict on Children

(“Impact of Armed Conflict on Children”: Study by Ms Graça Machel – 1996, recommendations)

- *All humanitarian responses in conflict situations must emphasize the special reproductive health needs of women and girls, including access to family planning services, pregnancy as a result of rape, sexual mutilation, childbirth at an early age or infection with sexually transmitted diseases, including HIV/AIDS. Equally important are the psychosocial needs of mothers who have been subjected to gender-based violence and who need help in order to foster the conditions necessary for the healthy development of their children.*
- *All military personnel including peacekeeping personnel, should receive instruction on their responsibilities toward civilian communities and particularly toward women and children as part of their training.*
- *Clear and easily accessible systems should be established for reporting on sexual abuse within both military and civilian populations.*
- *The treatment of rape as a war crime must be clarified, pursued within military and civilian populations, and punished accordingly. Appropriate legal and rehabilitative remedies must be made available to reflect the nature of the crime and its harm.*
- *Refugee and displaced persons camps should be so designed as to improve security for women and girls. Women should also be involved in all aspects of camp administration but especially in organising distribution and security systems. Increased numbers of female personnel should be deployed in the field as protection officers and counsellors.*
- *In every conflict, support programmes should be established for victims of sexual abuse and gender-based violence. These should offer confidential counselling on a wide range of issues, including the rights of victims. They should also provide educational activities and skills training.*

www.unhcr.ch

World Report on Violence and Health

(World Health Organization - 2002)

Recommendations

- *Create, implement and monitor a national action plan for violence prevention.*
- *Enhance capacity for collecting data on violence.*
- *Define priorities for, and support research on, the causes, consequences, costs and prevention of violence.*
- *Promote primary prevention responses.*
- *Strengthen responses for victims of violence.*
- *Integrate violence prevention into social and educational policies and thereby promote gender and social equality.*
- *Increase collaboration and exchange of information on violence prevention.*
- *Promote and monitor adherence to international treaties, laws and other mechanisms to protect human rights.*
- *Seek practical, internationally agreed responses to the global drugs trade and the global arms trade.*

www.who.org

Human trafficking (2002)

The Office of the High Commissioner for Human Rights published “***Recommended Principles and Guidelines on Human Trafficking***” to serve as a framework and reference for the OHCHR, other UN Agencies and governments. These are also useful to NGOs in their monitoring activities.

Guideline 8 lists special measures for the protection and support of the child victims of trafficking. This guideline is a supplement to Guideline 6 which deals with the protection and support of trafficked persons in general.

It stresses that states and, where applicable, intergovernmental and non-governmental organisations, should first and foremost take into account the best interest of the child and consider the following measures:

- *Ensure that definitions of trafficking in children in both law and policy reflect the need for special safeguards and care, including appropriate legal protection. In particular, and in accordance with the Palermo Protocol, evidence of deception, force, coercion, etc. should not form part of the definition of trafficking where the person involved is a child.*
- *Ensure that procedures are in place for the rapid identification of child victims of trafficking.*
- *Ensure that children who are victims of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.*
- *In cases where children are not accompanied by relatives or guardians, take steps to identify and locate family members. Following a risk assessment and consultation with the child, measures should be taken to facilitate the reunion of trafficked children with their families where this is deemed to be in their best interest.*

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Human Trafficking

(continued)

- *In situations where the safe return of the child to his or her family is not possible, or where such return would not be in the child's best interest, establish adequate care arrangements that respect the rights and dignity of the trafficked child.*
- *In both the situations referred to in the two paragraph above, ensure that a child who is capable of forming his or her own views enjoys the right to express those views freely in all matters affecting him or her, in particular concerning decisions about her possible return to the family, the views of the child being given due weight in accordance with his or her age and maturity.*
- *Adopt specialised policies and programmes to protect and support children who have been victims of trafficking. Children should be provided with appropriate physical, psychological, psychosocial, legal, educational, housing and health-care assistance.*
- *Adopt measures necessary to protect the rights and interests of trafficked children at all stages of criminal proceedings against alleged offenders and during procedures for obtaining compensation.*
- *Protect, as appropriate, the privacy and identity of child victims and take measures to avoid dissemination of information that could lead to their identification.*
- *Take measures to ensure adequate and appropriate training, in particular legal and psychological training, for persons working with child victims of trafficking.*

The United Nations General Assembly Special Session on Children – 2002

The Special Session was the first such Session devoted exclusively to children and the first to include them as official delegates. It culminated in the adoption, by some 180 nations, of the outcome document “A World Fit for Children”. This new agenda for – and with – children, includes 21 specific goals and targets for the next decade and focuses on four key priorities:

- Promoting healthy lives
- Providing quality education for all
- Protecting children against abuse, exploitation and violence
- Combating HIV/AIDS

The third goal covers key articles of the CRC:

Children have the right to be protected from all forms of abuse, neglect, exploitation and violence. Societies must eliminate all forms of violence against children.

Accordingly, we resolve to:

(a) Protect children from all forms of abuse, neglect, exploitation and violence;

(b) Protect children from the impact of armed conflict and ensure compliance with international humanitarian law and human rights law;

(c) Protect children from all forms of sexual exploitation, including paedophilia, trafficking and abduction

:

(d) Take immediate and effective measures to eliminate the worst forms of child labour as defined in International Labour Organisation Convention 182, and elaborate and implement strategies for the elimination of child labour that is contrary to accepted international standards;

(e) improve the plight of millions of children who live in especially difficult circumstances. Paragraph 44 then goes on to identify strategies, action and targets to implement the goals.

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***The United Nations Special General Assembly
Special Session on Children – 2002***

(Continued)

National Plans of Action

The Plan of Action of a *World Fit for Children* includes the development of national Plans of Action (NPAs) and, where appropriate, regional plans by the end of 2003. These plans are to be based on time-bound and measurable goals. More importantly, they must take the best interest of the child into account. Action plans must be consistent with national laws and at the same time, uphold the human rights and fundamental freedoms set forth in the Convention on the Rights of the Child. Participation is key in the development and implementation of the NPAs, including the participation of children and NGOs.

During the Special Session, NGO members of the *Child Rights Caucus* pledged to work with governments to ensure that NPAs contain concrete steps towards the full implementation of the CRC. A measure of NGOs success will be the degree to which they have encouraged children's involvement in the planning and implementation of the NPAs.

The *Caucus* will remain active throughout 2003 and can be reached via the NGO Group for the CRC on: ngo-crc@tiscalinet.ch

UNICEF site: www.unicef.org/specialsession This website also contains a child-friendly version of *A World Fit for Children*

Information on the Global Movement for Children which was launched on the occasion of the *Special Session* can be found on www.gmfc.org

From UNICEF, in the pipeline:

Capacity-building tools (to be published in 2003)

- **A training manual** to facilitate capacity building of partners at regional and country level. It is intended for teachers, religious leaders and policy makers, as well as communities, parents and children. It will analyse current international standards **on trafficking** including the CRC, the Palermo Protocol definitions, the CRC Optional Protocol and ILO Convention 182 and highlight these standards as examples of actual issues and problems.
 - **A guide for members of parliament** prepared in partnership with the Inter-Parliamentary Union will provide case studies on current national application of international standards to combat trafficking. Areas of focus will include anti-discrimination legislation and programming, immigration law and policy.
- www.unicef.org

Human Rights Complaints Procedures

This procedure is called the “1503 confidential communications procedure (revised in 2000). A Working Group on Communications designated by the Sub-Commission on the Promotion and Protection of Human Rights from among its members meets annually to examine complaints received from individuals and groups alleging human rights violations and any government responses.

Where the Working Group on Communications identifies a reasonable evidence of consistent pattern of gross human rights violations, the matter is referred to the Working Group on Situations which meets at least one month before the Commission on Human rights to examine the complaints and decide whether or not to forward it to the Commission. Subsequently, the Commission makes a final decision concerning each situation brought to its attention..

This process is confidential until the situation is referred to the Economic and Social Council, although since 1978, the Chairperson of the Commission on Human Rights announces the names of the countries under examination.

If a pattern of human rights abuses in a particular country subsists beyond the early stages of the process, it can be brought to the attention of the world community through the Economic and Social Council, one of the principal UN bodies (see chart inside back cover)

To be acceptable, complaints must not run counter to the UN Charter, nor be politically motivated; the alleged human rights violations must represent a consistent pattern and be reliably established; the communications can neither be anonymous, nor based only on mass media reports; as a rule, complaints containing abusive or insulting remarks about the targeted state will not be considered; finally, domestic remedies must have been exhausted unless it is convincingly shown that national solutions would be ineffective or unreasonably long before a communication is considered.

Communications intended to be handled under the “1503 procedure” may be addressed to the Support and Service Branch, OHCHR-UNOG, 1211 Geneva 10, Switzerland – Fax: (+ 41 22) 917 90 1.

T ips for national NGOs

There are several possible courses of action to use the UN treaties and mechanisms to combat child sexual exploitation, abuse and violence at national and regional levels.

Here are a few suggestions.

Get to know international instruments and mechanisms

- Obtain copies of the UN instruments and human rights documents which are mentioned in this brochure. They can be obtained from the OHCHR in Geneva, the UN Department of Public Information, country-based UN offices, Child Rights organisations or on Internet. Useful websites are given throughout this guide.

Then establish:

- Which international instrument your Government has ratified.
- If your Government has made any reservations or declarations on articles dealing with child protection at the time of ratification..
- What other commitment your Government has made (i.e. national plans of action on children, or specific issues such as sexual exploitation, trafficking, worst forms of child labour, UN resolutions on relevant children's issues, etc)..
- When your Government has or will submit national reports to UN monitoring bodies such as the Committee on the Rights of the Child, the Committee on the Elimination of discrimination against Women.
- What were the recommendations formulated by the particular reviewing committees (relevant web sites are listed in this brochure).
- Whether your Government can provide disaggregated statistics on issues relevant to child sexual exploitation or abuse.
- Whether there are opportunities for NGOs to consult with the Government, and
- Whether NGOs can contribute to national reports.

Monitoring, policy and service delivery

- Undertake analysis of compliance with laws, policy and practice of international and national standards and norms in respect of child sexual exploitation, abuse and violence and formulate key demands for change where necessary.
- Raise the topic of child sexual abuse and exploitation at board and executive levels in your agency or group to establish a policy on specific child rights problems in your country.
- Use existing treaties to guide a policy on child protection in general and child sexual exploitation and abuse in particular.
- Use the policy as a framework for developing a strategic plan or programme of action, raising awareness of all staff members and volunteers to this problem.
- Use the Stockholm Declaration and Agenda for Action, relevant recommendations contained in the Yokohama regional Plans of Action, existing UN and Specialised Agencies guidelines listed in this brochure for training and information.
- Find out about special services which could be used to facilitate early detection of and responses to child sexual abuse.
- Seek to involve children and youth in your community, from design to evaluation of programmes or research.
- Develop child protection policies addressing issues of recruitment, monitoring, complaints, disciplinary proceedings and police reporting within your own organisation as children sometimes can be at risk from staff in the very agencies working to protect them.
- Monitor media coverage of the issue to gauge the impact of awareness raising campaigns and ensure sensitive handling of the issue.

Building awareness and skills

- Set up education and training programmes at all levels, including children and youth.
- Hold consultations with “experiential” children and youth to understand their views and perspectives on the issue. Provide opportunities and ways for them to put recommendations forward as well as opportunities to get involved in implementation.
- Within your organisation, raise consciousness and awareness at staff meetings and amongst members. Explore areas not well known.
- Seek the collaboration and guidance of lawyers, psychologists in efforts to use the appropriate language.
- Familiarise yourself with the articles of the Convention on the Rights of the Child and learn how to use its provisions for implementation.
- Explore how other UN mechanisms can strengthen your efforts.

- Evaluate the impact and sustainability of existing activities and programmes before embarking on new ones.

Network and alliance building

- Identify other local NGOs, coalitions, women's groups, professional associations, universities, research institutes, trade and teachers' unions, the police and the legal profession dealing with child protection issues, share your knowledge and collaborate in areas of common interest.
- Discuss the possibility of establishing or joining a national coalition.
- Network with other organisations and individuals working with children.
- Create alliances with business groups, private organisations and the media.
- Through these alliances, explore and create specific short-term projects to raise awareness and stimulate action at local or national levels.
- Strive to mobilise all leaders and other members of the community to become active and responsible partners in the protection of all children.
- Collaborate with national coalitions on children's rights to provide information useful to the UN Committee on the Rights of the Child, the appropriate Special Rapporteurs or other relevant UN treaty bodies.
- While forming alliances, develop a joint position - based on your analysis of compliance with the CRC and other relevant international standards - to provide a basis for dialogue with local or regional UN Agencies as well as key government departments.

Action at regional and international levels

- Identify local or regional UN agencies which are most likely to be dealing with children and/or human rights, and in particular, sexual exploitation, abuse and violence, as well as specific programmes addressing the problem.
- Involve the local, national and regional media networks. Submit articles, involve the press in relevant events and lobby the media to raise awareness with the general public. Develop press releases or position papers but always make sure that facts and figures are correct.
- Develop and maintain links with international NGOs, the NGO Group for the CRC and other relevant international networks.
- Share your views, concerns and recommendations with members of extended multidisciplinary networks.

- As National NGOs can have a vital role in changing current trends and situations, participate in UN discussions through your international partners by providing them with local perspectives.

Protection and ethics: Lessons learnt

As they have intensified their efforts to combat child sexual exploitation and abuse, inter-governmental agencies (IGOs) and NGOs have become increasingly concerned with issues of security, safety and the right to privacy both for children and their own staff. The whole issue of accountability has also been raised, accountability not only for governments and IGOs, but also for NGOs and donors. We will simply highlight very briefly some of these issues.

Victim privacy

One of the lessons learnt since 1996 is the crucial need to protect children and youth from additional exploitation through media exposure and, occasionally, well-meaning researchers

Ethics

Another lesson learnt by NGOs and aid agencies is an increased awareness of their vulnerability to infiltration by paedophiles. Several organisations have consequently established codes of conduct as well as stringent recruitment policies, some examples of which can be found on the Focal Point web site. There are also concerted efforts to cooperate in the implementation of coherent prevention programmes.

Staff protection

Finally, there has been increasing awareness that NGO staff and aid workers operating in communities or institutions are often faced with highly sophisticated organised crime networks, sometime backed by powerful vested political interests, members of the judiciary or law enforcement agencies. Constant networking and attention to the security of the staff are required of any organisation dealing with child exploitation and abuse.

Accountability: a broadening concept for NGOs

During the past decade, inter-governmental and non- governmental organisations (and the private sector) have increasingly been held to account

for the broad impact of their policies and programmes, including unintended negative outcomes.

Traditionally, NGOs had taken for granted that they were exclusively “accountable” to those in authority within their own structure and, more narrowly, to those providing funds (donors).

While governments can be perceived to be credible as a result of a democratic election process, NGOs are mostly self-appointed and their traditional notion of accountability no longer provides sufficient support to justify their own claim of credibility or, indeed, legitimacy.

Recent events have made it clear that civil society needs to be held accountable to a broad range of “stakeholders” with a direct (or indirect) legitimate interest in their activities.

In the case of child protection, stakeholders now include direct beneficiaries, partners, the community in which the NGO operates, parents and, of course, the children themselves, as well as all those affected by the organisation’s programmes and policies.

This has led to a healthy new awareness of the urgent need for more qualitative and realistic assessment criteria in order to measure the short, medium and long term outcomes of policies and programmes, their sustainability and their capacity-building and empowerment impact on the children, their families and communities.

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ILO (International Labour Organisation)

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IPEC: Tel. (+41 22) 799 8181; www.ILO.org/childlabour

OHCHR (Office of the High Commissioner for Human Rights)

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NGLS (United Nations Non-Governmental Liaison Service)

Information on UN System work and activities, cooperation with NGOs

Tel. (+41 22) 917 2076; www.unsystem.org/ngls

UNO (United Nations Organization) www.un.org

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UNHCR (United Nations High Commissioner for Refugees)

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WHO (World Health Organisation)

Tel. (+41 22) 791 2111 www.who.org

UN Centre for International Crime Prevention, Office for Drug and Crime Prevention

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UNIFEM (United Nations Development Fund for Women)

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For **CEDAW** (Committee on the Elimination of Discrimination Against Women) *same website as UNIFEM above; to contact: the Division for Advancement of Women (DAW) daw@UN.org*

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Inter-American Commission on Human Rights: www.cidh.org
- **Asia - SAARC**
South East Asian Association for Regional Cooperation)
www.saarc-sec.org
- **Europe**
Council of Europe: www.coe.fr; NGO Unit: www.ngo.coe.int
Organization for Security and Co-operation in Europe (OSCE)
www.osce.org