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Children “Playing Sex for Money”¹: A Brief History of the World’s Battle Against the Commercial Sexual Exploitation of Children

In 1959, the United Nations General Assembly formally acknowledged that “mankind owes the child the best it has to give.”² To effectuate this broad goal, the Convention on the Rights of the Child (CRC), drafted over a period of ten years, was unanimously adopted by the General Assembly and entered into force in 1990.³ The Convention stands as the most widely accepted human rights treaty to date.⁴ “Recognizing the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries,”⁵ it sets forth specific provisions to protect children from sexual exploitation.⁶

¹ UNITED NATIONS CHILDREN’S FUND, PROFITING FROM ABUSE: AN INVESTIGATION INTO THE SEXUAL EXPLOITATION OF OUR CHILDREN at 35, U.N. Sales No. E.01.XX.14 (2001) *available at* <http://www.unicef.org/pubsgen/profiting/profiting.pdf> (describing Sierra Leonean girls as young as twelve, living in refugee camps in Guinea who admitted that they were often forced to “play sex for money,” or engage in prostitution, in an interview with Human Rights Watch monitors).

² PREAMBLE TO THE DECLARATION OF THE RIGHTS OF THE CHILD, *available at* <http://www.unicef.org/reseval/peacer.html#Declaration> (last visited March 21, 2002).

³ CONVENTION ON THE RIGHTS OF THE CHILD, Full text of the Convention *available at* <http://www.unicef.org/crc/fulltext.htm> (last visited March 21, 2002).

⁴ Child Rights in Action – Ratification *at* <http://www.unicef.org/specialesession/rights/ratification.htm> (last visited March 20, 2002). As of January 2002, the Convention has been ratified by all but two nation states, Somalia and the United States of America. The United States is a signatory, signifying a general endorsement, but not a legally binding step. Signing a convention does not commit a nation to later ratification, but is seen as a good faith intention to examine the treaty, and refrain from taking any measures to undermine the Conventions objectives. Convention on the Rights of the Child, Introduction, Status of Ratifications *at* <http://www.unicef.org/crc/crc.htm> (last visited March 21, 2002).

⁵ PREAMBLE TO THE CONVENTION ON THE RIGHTS OF THE CHILD, *available at* <http://www.unicef.org/crc/crc.htm> (last visited March 21, 2002).

⁶ CONVENTION ON THE RIGHTS OF THE CHILD, *available at* <http://www.unicef.org/crc/crc.htm> (last visited March 21, 2002)(referring specifically to the rights of protection against all forms of sexual exploitation and abuse in Articles 34 and 35, any form of exploitation in Article 36, torture or other cruel, inhuman or degrading treatment in Article 37).

However, child victims of commercial exploitation have not received the world community's full attention until recently.

Since the entry into force of the CRC, the commercial sexual exploitation of children has been an ongoing battle for developing and industrialized countries, multi-national and national non-governmental organizations, and the United Nations. Last year, the United Nations Deputy Secretary-General estimated that over 30 million children were trafficked each year, in many instances for sexual exploitation, by traffickers who went relatively unpunished.⁷ For the past twelve years, recognizing the serious and sometimes insidious nature of these offenses, international organizations have struggled to identify the causes and solutions of the problem while attempting to precisely categorize these offenses.⁸ This struggle has resulted in a separate movement within children's rights organizations to address the commercial sexual exploitation of children, and the growth of an arsenal of international and state specific weapons designed to combat this growing crisis.

I. EARLY DEVELOPMENTS: THE FIRST WORLD CONGRESS AGAINST COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

Immediately following the entry into force of the CRC in 1990, the World Summit for Children first acknowledged the problem of child sexual exploitation, which led to the first United Nations initiatives, including the appointment of a Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography.⁹ The Summit's Declaration, however, made no specific mention of com-

⁷ Deputy Secretary-General Reviews Progress, Setbacks Since 1990 World Summit on Children (June 11, 2001) at <http://www.un.org/News/Press/docs/2001/dsgsm133.doc.htm>.

⁸ See also HÉLÈNE SACKSTEIN, A REALITY TURNED UPSIDEDOWN: CHILD SEX WORKER, available at <http://www.focalpointngo.org/DOCS/English/Realityturnedupside.htm> (last visited March 21, 2002)(arguing that the use of the term "sex worker" to define child prostitutes trivializes the trauma these children suffer and is itself a violation of the rights of a child. Also the blurring of the line between sexual exploitation of children and exploitation through labor practices lends to the difficulty in addressing these problems.).

⁹ KOFI ANNAN, WE THE CHILDREN: MEETING THE PROMISES OF THE WORLD SUMMIT 87 (2001).

mercial sexual exploitation of children (CSEC), and it took several years for this issue to become fully exposed to the general public.¹⁰

The First World Congress Against Commercial Sexual Exploitation of Children was held in Stockholm in August 1996, six years after the establishment of the CRC. One hundred and twenty-two nations were represented at the gathering, and for the first time, the CSEC was brought to the world consciousness as a multi-faceted international crisis.¹¹

As well as bringing attention to the plight of thousands of children¹², the Congress formalized the myriad of issues and challenges involved in CSEC for the first time in their Declaration. Re-affirming the guarantee of the CRC for full protection from sexual abuse and sexual exploitation, the Declaration called for action on the local, regional, national and international levels.¹³ Nation states were called to criminalize CSEC, to enforce, revise and create new laws against CSEC, to interact with other States to combat the trafficking of children, to develop community based programs disseminating information on CSEC and to mobilize political and community leaders to assist in eliminating CSEC.¹⁴

The Agenda for Action, developed concurrently with the Declaration, set forth guidelines for reaching the goals of the Congress, and called for action from all sectors of the world community, including nation States, and national, regional, and international organizations. The Agenda stressed coordination and cooperation on the national and international level, prevention and protection for children at risk, and recovery and re-integration of child victims.

¹⁰ See generally WORLD DECLARATION ON THE SURVIVAL, PROTECTION AND DEVELOPMENT OF CHILDREN, available at <http://www.unicef.org/wsc/declare.htm> (March 21, 2002).

¹¹ See Commercial Sexual Exploitation and Sexual Abuse of Children, The World Congress at http://www.escap-hrd.org/cedc/csec4.htm#N_5_ (last visited March 20, 2002).

¹² See generally Congressional research service report 98-649C Trafficking in Women and Children: The U.S. and International Response available at <http://usinfo.state.gov/topical/global/traffic/crs0510.htm> (May 10, 2000) (stating that although no clear estimates are available on how many children are being commercially sexually exploited, the United States Department of State estimates that between one and two million women and children are trafficked each year for forced labor, domestic servitude and sexual exploitation).

¹³ See DECLARATION OF THE FIRST WORLD CONGRESS ON THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN, available at <http://www.usemb.se/children/csec/declaration.html> (last visited March 20, 2002).

¹⁴ *Id.*

Each country was urged to develop national agendas for reducing the number of children vulnerable to commercial sexual exploitation and given methods of gauging progress in addition to a target time frame for implementation by the year 2000.¹⁵ The Agenda also highlighted the key role played by international organizations, including United Nations affiliates, the World Bank, the International Monetary Fund (IMF), INTERPOL, the World Tourism Organization and non-governmental organizations, in eliminating CSEC by recognizing children's rights, and advocating for the full implementation of the CRC.¹⁶

II. PROGRESS ASSESSED: THE SECOND WORLD CONGRESS ON THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

Five years later, progress in regards to CSEC was assessed in several regional conferences and in the Second World Congress on the Commercial Sexual Exploitation of Children held in Yokohama, Japan in December 2001.¹⁷ Over 3,000 participants attended the four-day conference, three times as many present at the First Congress.¹⁸ While participants reported on actions taken to meet the Stockholm Agenda's goals and recommitted themselves to the Stockholm Declaration, the proliferation of child pornography, and the access to children, or those operating child "sex tourism" on the Internet, raised new concerns. The necessity of a multi-national effort in preventing CSEC is now even more of a priority, as sexual exploitation of children was seen to be tied not only to children in impoverished areas, but also to those in prosperous countries.

Western European countries reported the development of computer software programs that identified child victims through facial recognition, evaluated pornographic images to determine whether they had been newly created and experimented with computer viruses that would destroy child pornographic sites on the Internet.¹⁹ Since the First Congress, twenty-one nations, including

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See generally 2nd World Congress Against Commercial Sexual Exploitation of Children at <http://www.focalpointngo.org/yokohama> (last visited March 21, 2002).

¹⁸ James Brook, *Sex Web Spun Worldwide Traps Children*, N.Y. TIMES, December 23, 2001, at A12.

¹⁹ *Id.*

Japan, Korea, and United States, have adopted laws that allow the police to arrest people for paying for sex with children while overseas.²⁰

In Togo, incorporating the Convention on the Rights of the Child into the National Code was a step towards raising their nation's awareness of children's issues. Revising passport and visa procedures to carefully regulate and screen the movement of children and requiring a governmental agency to check up on children adopted out of the country were steps taken to combat CSEC.²¹ In Cambodia, the dissemination of information to townspeople and the forming of a village network for stopping the abduction of children for forced prostitution proved successful in saving children's lives.²² In Kenya, re-habilitation programs for young women at risk or in the early stages of involvement in the sex trade have been developed to educate on exploitation of women's rights as well as offer vocational training.²³

The U.S. government, recognizing that each year approximately 25,000 women and children are smuggled into the U.S. for forced prostitution or illegal adoption, enacted the Trafficking Victims Protection Act, which established penalties for those who "knowingly operate enterprises that profit from sex acts involving persons who have been brought across international boundaries . . . by force or fraud" equal to those for kidnapping and forcible rape.²⁴

III. THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

In January 2002, one month after the Yokohama Conference, the Optional Protocol to the Convention on the Rights of the Child

²⁰ *Id.* The U.S. State Dept reports that American men, along with Europeans and Australians, are reportedly the most numerous sex tourists in Central America, South East Asia, and South Asia. *Id.*

²¹ ECPAT INTERNATIONAL, FIVE YEARS AFTER STOCKHOLM: THE FIFTH REPORT ON THE IMPLEMENTATION OF THE AGENDA FOR ACTION ADOPTED AT THE FIRST WORLD CONGRESS AGAINST COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN HELD IN STOCKHOLM, SWEDEN, AUGUST 1996 11 (2001).

²² UNICEF, *supra* note 1 at 24.

²³ UNICEF, *supra* note 1 at 29.

²⁴ *See generally* Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386.

on the Sale of Children, Child Prostitution and Child Pornography entered into force.²⁵ Signed by eighty-six nations to date and ratified by eighteen, the Optional Protocol extends the measures that State Parties can undertake in order to guarantee the protection of children from commercial sexual exploitation.²⁶

The Protocol extends the CRC's generalized protections, by defining particular offenses and criminalizing these offenses under State Party's criminal law. Specific definitions are given to the "sale of children,"²⁷ "child prostitution,"²⁸ and "child pornography."²⁹ Practices, such as "offering, delivering, or accepting by whatever means a child" for purposes of sexual exploitation, the "offering, obtaining, procuring or providing" of a child for child prostitution and the "producing, distributing, disseminating, importing, exporting, offering, selling, or possessing . . ." child pornography are criminalized and made actionable under a State Party's criminal law.³⁰

The Protocol calls for governments to pursue citizens involved in the abuse of children abroad by strengthening State Party's extraterritorial jurisdiction and rights to the extradition of offenders.³¹ International cooperation in aiding child victims is also sought.³² The Protocol specifically allows signatories to the CRC to sign and ratify the Protocols even if they have not ratified the underlying Convention.³³ The United States, which has signed but not ratified

²⁵ UNICEF, UNICEF HAILS ENTRY INTO FORCE OF OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY, at <http://www.unicef.org/newsline/02pr02printer.htm> (last visited March 20, 2002).

²⁶ See generally Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, available at <http://www.unhcr.ch/html/menu2/dopchild.htm>.

²⁷ *Id.* at Art. 2 (defining the sale of children as "any act or transaction whereby a child is transferred . . . to another for remuneration or any other consideration.").

²⁸ *Id.* (defining child prostitution as the "use of a child in sexual activities for remuneration or any other form of consideration.").

²⁹ *Id.* (defining child pornography as "any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child, the dominant characteristic of which is depiction for a sexual purpose.").

³⁰ *Id.* at Art. 3.

³¹ Chris Revaz, The Optional Protocols to the UN Convention on the Rights of the Child on sex trafficking and child soldiers, Human Rights Brief, 2001.

³² *Id.*

³³ *Id.*

the CRC, is therefore eligible to sign, ratify, and implement the Protocol.

The momentum generated by the Yokohama Conference, along with entry into force of the Optional Protocol, may prove to create another special stage for further dialogue on the issue of the commercial sexual exploitation of children at the United Nations General Assembly Special Session on Children in May 2002. *We the Children*, a recent report by Secretary General Kofi Annan, will be a background document for the discussions.³⁴

In the Report, the Secretary General, recognizing the sensitivity of the issue and the insidious nature of the crimes, describes the sexual exploitation of children as a "global problem, with every region of the world struggling with some aspects." He sets forth priority actions for the future, which include greater investments in research, improvement in legislation, enforcement, and collaboration between law-enforcement agencies, and a further emphasis on rehabilitating and reintegrating child victims.³⁵

It has been said that it is better to light a candle than to curse the darkness,³⁶ but while international organizations have lit what seems be thousands of lights, the darkness and horror of the sexual exploitation of children remains, endures, and maybe grows stronger. Now more than ever, amid the HIV/AIDS pandemic, the proliferation of child pornography on the Internet and access to children and those who provide access to child "sex tourism" through the Internet, the international community stands threatened by those who force children to "play sex for money." Success will come through continued vigilance on the part of the United Nations and international, governmental, and non-governmental organizations by keeping these hidden secrets in the full light of day.

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³⁴ UNGASS on Children, 8-10 May 2002, Notes on the Round Tables at <http://www.un.org/ga/president/56/documents/children.htm> (last visited March 20, 2002).

³⁵ Annan, *supra* note 9.

³⁶ NUON RITHY NIRON, YIT VIRIYA, & LAURENCE GRAY, CHILDREN'S WORK, ADULTS PLAY: CHILD SEX TOURISM - THE PROBLEM IN CAMBODIA 4 (2001).

