

Semantics or



Substance?

**Towards a shared
understanding of
terminology referring
to the sexual abuse
and exploitation
of children**

Subgroup Against the Sexual Exploitation of Children
NGO Group for the Convention
on the Rights of the Child

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Acronyms

BICE: International Catholic Child Bureau

CRC: United Nations Convention on the Rights of the Child

CSA: Child sexual abuse

CSEC: Commercial sexual exploitation of children

ECPAT: End Child Prostitution, Child Pornography and
Trafficking of Children for Sexual Purposes

FGM: Female genital mutilation

IOM: International Organization for Migration

NGO: Non-governmental organisation

UN: United Nations

UNESCO: United Nations Economic, Social and Cultural
Organization

UNFPA: United Nations Population Fund

UNICEF: United Nations Children's Fund

WHO: World Health Organization

WTO: World Tourism Organization

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The Subgroup Against the Sexual Exploitation of Children is a thematic subgroup of the NGO Group for the Convention on the Rights of the Child. The NGO Group is a global network of NGOs,

including professional associations, workers' unions and philanthropic organisations, explicitly committed to promoting children's rights as defined by the UN Convention on the Rights of the Child.

The NGO Group is a partner in the work of the Committee on the Rights of the Child and its mission is to facilitate the promotion, implementation and monitoring of the CRC. For more information on the NGO Group and the Subgroup Against the Sexual Exploitation of Children, visit www.crin.org/NGOGroupforCRC/.

Foreword

Millions of children around the world are sexually exploited and abused. Children from poor countries as well as rich, boys as well as girls, face the threat of sexual abuse or exploitation. No region or country is immune. An estimated 2 million children globally are exploited in the commercial sex trade; more than a million children are trafficked for all purposes each year. Children who are trafficked are extremely vulnerable to sexual abuse and exploitation. These figures speak to a massive failure of protection for children.

In the face of such failure, is it simply a distraction or an academic exercise to focus on the language we use in reference to the sexual abuse and exploitation of children? It is not. Words matter because they shape our understanding of the problem, and guide our solutions. *Semantics or Substance? Towards a shared understanding of terminology referring to the sexual abuse and exploitation of children* is an important step in creating a shared language for non-governmental organisations, governments and international bodies such as the United Nations to speak frankly and openly about the abuse and exploitation of children. The veil of silence cast over the rough reality of children's risk and exposure to sexual abuse and exploitation is a major impediment to marshalling protection. Using common language that is understandable to all and accurately defines the abuses can help to break the silence at many levels – on the part of governments, within communities, in families, among children themselves, in the media – and thereby strengthen child protection.

UNICEF welcomes this publication. *Semantics or Substance?* is a contribution to shaping a world fit for children - a world in which

children are free from exploitation and abuse, and able to live in safety and dignity.

Karin Landgren

Chief, Child Protection

UNICEF

Introduction

Child sex tourism, paedophilia, incest, child sexual abuse – these terms are well-known to many of us working to promote the rights of children and to protect them from violation. These terms, however, are often used interchangeably and inappropriately to define what are in fact very specific acts. As governments, United Nations agencies and non-governmental organisations working to prevent sexual violence against children and to assist those children who have been violated, it is important that we understand clearly what we are talking about when we use terms such as these.

The confusion around terminology may not seem like a substantive issue – aren't we simply being overly pedantic? But the implications of confusion are considerable. This publication seeks to highlight the confusion around several of these terms and the potential implications. The 14 terms discussed in this publication have been selected as indicative examples of a much wider problem. These terms are used frequently in discussions on sexual crimes committed against children and will be easily recognisable to those working in this area.

In his report to the Second World Congress against Commercial Sexual Exploitation of Children, held at Yokohama in 2001, the General Rapporteur, Professor Vitit Muntarbhorn, noted that one workshop at the congress had recognised that “there remains disagreement among operational actors concerning definitions behind the phenomenon of the sexual exploitation of children”.¹ This recognition was understood to constitute a considerable challenge to tackling the problem of commercial sexual exploitation of children.

Increasingly, governments, UN agencies and NGOs are recognising that unless we have clear and agreed definitions in relation to sexual harm against children, the data collected, the strategic responses designed, the legislation implemented and the protection interventions developed, will be most likely impaired. Cross-country analysis becomes almost impossible if different countries utilise different definitions for the same terms. Legislation can reflect large loopholes and protection gaps, while responses can suffer from a misunderstanding about prevalence, practice and perception.

Understanding key terms and defining them consistently is an important part of effective prevention, protection and recovery programmes for children who have been sexually abused and exploited. In recent years, the significant increase in the development of international instruments that capture some of these terms has helped to provide some clarification. The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, for example, provides clear and concise definitions for children in prostitution and child pornography. In other cases, however, international instruments employ certain terms without providing a definition as to what they mean.

In addition, there is a recognisable divide between what may be described as scientific or medical definitions of certain terms and those described as legal. This is particularly the case with definitions of age, child sexual abuse and sexual violence. The international child rights movement has tended to adopt a more legalistic approach

to definitions, though not always. Reflecting this tendency, this publication does not draw on definitions employed by medical or scientific entities, with the exception of the World Health Organization. Rather it draws on the international instruments and agencies that influence the policies and programmes of governments, UN agencies and child rights NGOs around the world.

Semantics or Substance? does not promote preferred definitions but highlights the various definitions utilised. For example, in one instance up to as many as 11 different definitions for a single term have been identified. For this publication to recommend preferred definitions and offer justifications would have made this an undertaking of epic proportions. The Subgroup Against Sexual Exploitation of Children recommends, however, that UN and international agencies continuously consult a broad spectrum of specialised organisations, including NGOs that have specific expertise in the relevant field, to ensure that the most appropriate definition is employed. NGOs, too, should be mindful of the definitions they use and seek to adopt a universal understanding wherever possible. The aim is to correct difficulties caused by national laws that consistently ignore internationally agreed standards, such as the definition of a child, and which create serious issues around protection, incidence and prevalence understanding and programmatic interventions.

Regional and international strategies become more difficult where the understandings and assumptions of governments begin from a different base. In some instances, for example, the term 'sexual exploitation' is assumed to have a commercial component because

of understandings of the word 'exploitation'. In other instances, 'commercial' must be used explicitly to stress this concept. Similarly, confusion has also traditionally revolved around concepts of child labour, exploitative child labour and child work. Definitional misunderstandings about the very issues to be addressed can produce ineffective and flawed responses, while the gathering of data based on varying definitions can skew programme designs.

The Subgroup Against the Sexual Exploitation of Children hopes that *Semantics or Substance?* helps to highlight the need for increased understanding and clarity when certain terms are used to describe sexual harm against children. It is imperative that all partners, most especially the community and children affected, understand what we mean when we use certain terms and that the definitions applied to them are used consistently and, where possible, universally.

Melanie Gow

Chair

NGO Group for the Convention on the Rights of the Child

¹ V. Muntarbhorn. *Report of the Second World Congress against Commercial Sexual Exploitation of Children*. Yokohama, Japan. 17-20 December 2001. p.105.

Methodology

Research strategy and technique

In an effort to publish and discuss definitions from throughout the international community of a key list of terms related to the sexual abuse and exploitation of children, several research techniques were used. International legal instruments were studied, an extensive search of the Internet was made, interviews were conducted, and contributions were invited from a number of international actors. At the conclusion of the initial draft, feedback was sought from major contributors.

Selection of terms

This publication in no way reflects an exhaustive list of terms referring to various forms of sexual violence, abuse and exploitation of children. The terms were chosen by members of the Subgroup Against Sexual Exploitation of Children as those most commonly used and often misunderstood. We recognise that many more terms could appropriately form part of this analysis.

The structure of the publication

The main body of the publication has been separated into two sections. The first section highlights definitions found within international instruments, those used by intergovernmental organisations, and those utilised by individual NGOs and by coalitions. The second section cites the international instruments in which these terms may be found.

The order in which definitions appear

In section one, definitions from international instruments are displayed first, in chronological order from the most recent to the least recent. Then, definitions gained from intergovernmental organisations are shown in alphabetical order, followed by definitions from NGOs.

The citations in section two are ordered in accordance with the structure of international instruments, and are then presented in chronological order. Thus articles from a 1990 international convention appear before a 1989 article, and both appear before an international declaration, even if that declaration was made in 2002. The order is as follows: convention, protocol to convention, covenant, declaration and resolution.

Section 1: Definitions

1. CHILD PROSTITUTION

As the Optional Protocol to the Convention on the Rights of the Child notes, the prostitution of children is one manifestation of the use of a child in sexual activities for remuneration or any other form of consideration. Most generally, it means that a party other than the child benefits from a commercial transaction in which the child is made available for sexual purposes - either an exploiter intermediary (pimp) who controls or oversees the child's activities for profit, or an abuser who negotiates an exchange directly with a child in order to receive sexual gratification. The provision of children for sexual purposes may also be a medium of exchange between adults. The prostitution of children is closely connected to the trafficking of children for sexual purposes and child pornography, while child sex tourism generally falls into the category of prostitution.

The prostitution of children is usually conducted in particular environments, such as from brothels, or bars and clubs, or homes, or particular streets and zones. Sometimes it is not organised, but most usually it is, either on a small scale through individual pimps or on a large scale through extensive criminal networks. Children are also involved in prostitution, however, when they exchange sex outside these locations and in return not only for basic needs such as accommodation, food, clothing, drugs or safety, but also for favours such as higher grades at school or extra pocket money for desired consumer goods otherwise out of their reach. In all these cases, the key issue is not that children opt to engage in prostitution in order to survive on the one hand or to buy more consumer goods on the other,

but that children are pushed by social structures and individual agents into situations in which adults take advantage of their vulnerability and sexually exploit and abuse them. An all too common example of structure and agency combining to force a child into commercial sex is where the prostitution of the child follows on from prior sexual abuse, most likely in the home.

Child prostitution is the most commonly used term in relation to commercial sexual exploitation of children (CSEC), and the most clearly identifiable manifestation of CSEC, as opposed to commercial sexual exploitation through child marriage, domestic labour and the trafficking of children for sexual purposes. It was the limitations of the term 'child prostitution' that led to the development in the mid-1990s of 'commercial sexual exploitation of children' as a more encompassing description of specific forms of sexual violence against children. Nevertheless, 'child prostitution' remains in common usage and is indeed embedded in international instruments. But 'child prostitution' and 'child prostitute' continue to carry problematic connotations. This is because these constructions, on their own, fail to make it clear that children cannot be expected to make an informed choice to prostitute themselves; the act of prostituting the child is in fact carried out by another party, as is made clear in the definition provided below by the Special Rapporteur of the UN Commission on Human Rights on the sale of children, child prostitution and child pornography. These terms do not adequately express the child's experience of force, exploitation, and physical and psychological harm inflicted through their engagement in prostitution. In addition, public understanding of 'prostitution' and 'prostitute' worldwide has been shifting as a result of the introduction of terms such as 'sex worker', intended to raise the perceived status of women in prostitution. However, when it comes to children, to refer to 'sex work'

is wholly misleading; again, it downplays the criminal exploitation committed against a child forced into prostitution and suggests that a child ‘worker’ has somehow chosen to follow a ‘profession’. In light of these concerns, it is preferable to avoid the term ‘child prostitute’ altogether, and always to make it clear that a child in prostitution has been forced by other people and by circumstances into commercial sex. It is adults who create ‘child prostitution’ through their demand for children as sexual objects, their misuse of power and their desire for profit.

International Definitions

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Article 2(b). Entered into force on 18 January 2002.

Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration ... Definition

Commission on Human Rights

‘Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography’. Commission on Human Rights. 52nd session. Item 20 (b) of the provisional agenda, E/CN.4/1996/100. 17 January 1996.

The act of engaging or offering the services of a child to perform sexual acts for money or other consideration with that person or any other person ... Definition

UN

Cited in *Definitions of Child Sexual Exploitation and Related Terms*. NGO Group for the Convention on the Rights of the Child. Geneva. 2000. (Out of print.)

Definition Child prostitution is an act of engaging or offering the services of a child to a person to perform sexual acts for money or other consideration with that person or any other person.

UNICEF

‘Child Protection: Child Sexual Exploitation, Nature of the Problem’. <http://www.unicef.org>. Accessed: January 2004.

Definition Sexual abuse becomes sexual exploitation when a second party benefits – through making a profit or through a quid pro quo – through sexual activity involving a child. This may include prostitution and child pornography.

NGO Definitions

Child Wise

‘About CSEC: Child prostitution’. Child Wise. 2003. <http://www.ecpat.org>. Accessed: January 2004.

Definition Prostitution is used to describe commercial sexual activities. In recent years the term ‘prostitution’ has become a politically loaded term. It is increasingly being replaced by the term ‘sex work’ which is the preferred term of adults participating in the mainstream sex industry. For children and young people, however, the term is less appropriate. It does not address their experiences of commercialised sexual activity.

Research shows that young people rarely identify as sex workers/prostitutes or view their actions in those terms. New labels for their commercial sexual activities have been developed, especially in the first world context. These include ‘sex for survival’, ‘opportunistic prostitution’ and ‘sex for favours’. These terms recognise the types

of exchanges involved when a young person exchanges sex for basic needs such as accommodation, food, clothing, drugs or safety.

However, literature and research and organisations addressing this issue, especially in developing countries, continue to use the term child prostitution to describe the sexual exploitation of a child for remuneration in cash or in kind. Child prostitution can involve a third party offering the sexual services of a child for money or other remuneration.

Global March Against Child Labour

Out of the Shadows: A Worldwide Report on the Worst Forms of Child Labour. India. 2000.

As per the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, the definition of child prostitution is “the use of a child in sexual activities for remuneration or any other form of consideration”. Child pornography means “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”.

Definition

2. CHILD SEX TOURISM

Child sex tourism is the commercial sexual exploitation of children by men or women who travel from one place to another, usually from a richer country to one that is less developed, and there engage in sexual acts with children, defined as anyone under the age of 18. Child sex tourism takes various forms, but generally it is about adult men who, in the course of travelling away from home, pay in cash or kind for sex with children. While some women commit such violations, they represent less than 5% of sexual offenders.

Child sex tourists may not have a specific preference for children as sexual partners but take advantage of a situation in which children are made available to them for sexual exploitation. Mostly, these people have travelled from a richer country (or a richer town or region within a country) to a less-developed destination, where poorer economic conditions, favourable exchange rates for the traveller and relative anonymity are key factors conditioning their behaviour and sex tourism. The visitors' demand for sex then fuels the further provision of children for exploitation. But sex tourists are not just holiday-makers. They include others whose occupations take them to destinations away from home, such as business people, transport industry workers and military personnel. Similarly, sex exploiters are not necessarily foreigners as one can be away from home within one's own country. Nevertheless, it is the transnational character of child sex tourism that has served to highlight the issue.

It is important that the general definition of child sex tourism does not restrict understanding of this crime against children to tourism organised specifically around commercial sexual exploitation or simply stress the prior intention of the traveller; it needs to cover

situational exploiters (who are the majority) as well as the variety of legal and illegal business operations that contribute to tourism industries within which children are sexually exploited.

A traveller may not intend to engage in sex with children while they are away from home, but they do so because a child is made easily available to them. Opportunistic exploitation, then, along with organised child sex tourism, is a critical factor compounding the complex socio-economic factors that push children into local prostitution industries. This globalised cycle is also crucially interlinked with the trafficking of women and children and the pornography industry.

The traveller may rationalise their sexual exploitation of a child by adopting an assumption that sex with a child is culturally acceptable in the place that they are visiting. This assumption may be lent weight where law enforcement authorities fail to punish crimes against children or where it is known that legal action may be circumvented through bribery. While prostitution of children may be illegal, a blind eye often seems to be turned to such offences when foreigners and the wealthy are involved. In this sense, the economic benefits derived from tourism often override a national government's commitment to prosecute and punish all crimes against children through national laws and international instruments that ensure the protection of children against sex exploiters in tourism.

While the definition of child sex tourism has been continuously refined, building on greater understanding of its scope and manifestations, the fundamental protection of children against commercial sexual exploitation is addressed in the Convention on the Rights of the Child (specifically in Articles 34, 35, 36 and 19),

which commits signatories to ensuring that children are protected from sexual exploitation and abuse, including prostitution and pornography. Article 34 recognises the cross-border aspects of the sexual exploitation of children, as is often the case in child sex tourism, by requiring governments to take action through national, bilateral and multilateral measures. Article 35 calls for similar action with regard to the abduction, sale and trafficking of children, which is linked to the global child sex industry.

The CRC position on child sex tourism is strengthened by the Optional Protocol on the sale of children, child prostitution and child pornography, which expresses explicit concern about child sex tourism. Article 10 commits signatories to: "... take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations." In addition, there is the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, which supplements the UN Convention Against Transnational Organised Crime and further protects children from trafficking for sexual and other purposes.

In the fight to protect all children, it is of critical importance that the complexity of child sex tourism be commonly understood. It requires a definition that has practical application to address the problem from various locally specific sites and also to anticipate and counter 'transnational creep', an effect whereby a crackdown in one place

results in the problem shifting to a new location.

International Definitions

World Tourism Organization

‘WTO Statement on the Organization of Child Sex Tourism’. Resolution GA/RES/338(XI) 1995. Paragraph 3. 11th Session. Egypt. 1995.

Sex tourism can be defined as trips organized from within the tourism sector, or from outside the sector but using its structures and networks with the primary purpose of effecting a commercial sexual relationship by the tourist with residents at the destination.

Definition

NGO Definitions

Child Wise

‘About CSEC: Child sex tourism’. Child Wise. 2003. <http://www.ecpat.org>. Accessed: January 2004.

Child sex tourism is the commercial sexual exploitation of children by foreigners. It usually refers to:

Definition

- a) persons who travel from their own country to another to engage in sexual acts with children, or
- b) foreigners who engage in sexual activity with a child while overseas.

ECPAT International

Questions and Answers about the Commercial Sexual Exploitation of Children. ECPAT International. Thailand. 2001.

[Child sex tourism] is the commercial sexual exploitation of children by persons who travel from their own country to another usually less developed country to engage in sexual acts with children.

Definition

3. CHILD MARRIAGE

Child marriage involves the marriage of anyone below the age of 18. It is the marriage of a child to an adult or another child, and may be legally condoned by national laws.

Also known as early marriage, child marriage is a form of marital union of young children and adolescents that is practised or tolerated by many societies. These marriages are often given legal sanction because of legislative loopholes that in fact camouflage the sexual exploitation of children. And while a child cannot be expected to appreciate all the implications of marriage and give full and informed consent to it, their wishes are generally overlooked in the arrangement of such a marriage.

Child marriages are arranged in various ways and involve both boys and girls. It is more usual for girls to be married to boys and men who are older than they are, while boys are more commonly married to girls of a similar age. Such marriages may be arranged between two very young children as a means of maintaining or ensuring social, economic or political ties between families. In other cases, girls may be married to much older men who are more able to pay the dowries expected or demanded by a family. Many children may know their marriage partner and have been raised with him or her. Others may be married to strangers. Often, child marriages are arranged through a broker who is compensated in various ways.

Child marriage increases the vulnerability of girls in particular to sexual abuse and exploitation through all stages in their lives, and puts very young girls at risk of health problems associated with early sexual intercourse and pregnancy. Many girls married at a young age

have limited schooling or training in self-sufficiency skills, which increases their economic dependence on husbands. Child marriage is also associated with later divorce or abandonment which often means acute poverty for the girl or young woman and leaves them more vulnerable to resorting to some form of commercial sex to survive.

Child marriage can be regarded as a form of commercial sexual exploitation of children where a child is to be used for sexual purposes, through marriage, in exchange for cash, goods or kind. This is the case where parents or a family marry off a child in order to gain benefit or to support the family.

Different societies have different perceptions of childhood, but most governments have committed through the Convention on the Rights of the Child to ensure the overall protection of children and young people aged under 18. In particular, governments have committed to safeguard children from all forms of abuse and exploitation, as well as to uphold their rights to health and protection from harmful traditional practices, which include child marriages. Any rationalisation of child marriage as the practice of tradition overlooks the fact that such marriages are often arranged within social milieu where the rights of children to protection as embodied in the CRC are absent. As such, these marriages may cater to a demand for children as sexual partners in ways that are not identified by society as abuse. Overall, the argument for tradition or common law practices lends legitimacy to this sexual abuse and exploitation of children. But child marriage should be seen in the context of commercial sexual exploitation of children and identified as such.

Even as the practice of child marriage exposes children, especially immature girls, to the physical and psychological harm that comes

with sexual abuse and exploitation, the legal codes of many countries allow for the reclassification of married children as adults. This ambiguity is incorporated into the base of the CRC, with the definition of a child in Article 1 allowing for different perceptions of childhood where national laws set the age of majority below 18 years. As such, it could be interpreted that young people who gain majority at nine, as is the case in some places, are no longer required to be protected under a government's commitment to the CRC. This opening provided for variation in the age of majority has weakened adherence to the CRC's definition of a child. It is the definition of a child that needs clarification here.

Nevertheless, child marriages can be seen to contravene the rights of all children to protection, development and survival as defined throughout the CRC, as well as in other instruments that include articles reinforcing the right to marry based on full and informed consent. Where the marriage of children aged under 18 is permitted by a national legal code, without regard for whether young people have the opportunity and means to give full and informed consent, that country is violating its commitment to the Convention. By not harmonising national legal codes in accordance with the spirit of the CRC, such governments negate their duty to protect children.

International Definitions

UN

'Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages'. Principle II. Resolution GA/RES/2018(XX). 1965.

Member States shall take legislative action to specify a minimum age for marriage, which in any case shall not be less than fifteen years of age; no marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.

Definition

UNICEF

‘Child Protection: Early marriage’. UNICEF. <http://www.unicef.org>. Accessed: January 2004.

The marriage of children and young people under the age of 18

Definition

NGO Definitions

ECPAT International

Questions and Answers about the Commercial Sexual Exploitation of Children. ECPAT International. Thailand. 2001.

The marriage of children and adolescents below the age of 18.

Definition

4. CHILD PORNOGRAPHY

Child pornography is a violation against children. It involves sexual abuse and exploitation of children and is linked to the prostitution of children, child sex tourism and the trafficking of children for sexual purposes. While individual and community understandings of child pornography may vary within and between societies, the Convention on the Rights of the Child, Article 34, commits signatories to act to prevent “the exploitative use of children in pornographic performances and materials”. The Convention’s Optional Protocol on the sale of children, child prostitution and child pornography expands on this to offer a good general description of child pornography. But a more comprehensive definition that more adequately addresses computer-generated images is incorporated into the Council of Europe’s Convention on Cybercrime (although the scope for its application remains limited geographically).

There are many different kinds of child pornography materials, made available through a variety of media, but essentially they involve depicting a child or children in a manner that is intended to aid sexual arousal and gratification. Hard-core materials depict a child engaged in real or simulated explicit sexual activities or lewdly depict parts of a child’s body. Soft-core pornography is not sexually explicit but involves naked and seductive images. Child pornography includes not only the use of real children to make these materials but also artificially created imagery. This ‘virtual’ material is usually referred to as pseudo-child pornography, and includes digitally created images and ‘morphed’, or blended, images of adults and children. ‘Pseudo’ in this sense, however, should be used warily because its synonymic link to ‘false’ could have the effect of downplaying the exploitative significance of such imagery and its power to normalise images of

child sexual abuse under the pretext of it not being 'real', as well as to incite sexual exploitation of children. It is with reference to these kinds of images that the Convention on Cybercrime's definition is worthy of emulation.

General definitions of child pornography most commonly focus on visual representations of a child, and audio materials to a lesser extent. They tend not to incorporate sexualised depictions of children or very young-looking people in mainstream media. As well, many definitions appear to overlook texts that describe sexual acts and/or fantasies involving children, although the term 'pornography' was coined in reference to writing (originally from *pornographos*, for writing about prostitutes). This creates difficulties in pursuing prosecutions for the possession of pornographic texts depicting sex with children.

Child pornography exploits children in many different ways. Firstly, children may be physically forced or coerced into making it. This involves direct sexual abuse and exploitation. Pornographic images of children are often copied multiple times and may remain in circulation for many years; the victim continues to be subjected to humiliation long after the image has been made. Secondly, those who 'consume' and/or possess pornographic depictions of children are arguably continuing to exploit these children. People who view images of child pornography (who are not necessarily paedophiles or preferential abusers) may be a step removed from its making (though very often they make it themselves). But their demand for child pornography maintains the incentive to produce such material, thus furthering the abuse and exploitation of yet more children. At the same time, there is evidence that the use of child pornography does incite some people to sexually abuse other children. There are cases

where offenders only begin to abuse children after being exposed to child pornography. In any case, the person who views images of child abuse is an abuser too, using such images to gain immediate access to a child for sexual victimisation, whether or not that person makes pornography and whether or not they seek sex with other children as a result of the sexual stimulation and validation provided by their use of child pornography. In the same way, the consumption of simulated materials degrades and victimises children in general and also has the same potential to encourage actual sexual abuse of a child. Thirdly, it is common for child sexual abusers and exploiters to use pornographic materials to lower a child's inhibitions and to entice or coerce them into engaging in inappropriate sexual behaviour. This crime can be committed using materials depicting real or 'virtual' children. Finally, the makers of pornography also commonly use their products to intimidate and blackmail the children used in the making of such material.

Child pornography is made by child abusers. It is often distributed for no commercial gain, and this sharing works to rationalise and establish the sexual desire for children in the public realm. It is also used to establish trust among paedophiles and preferential abusers, as well as to gain entrance to private 'clubs'. But increasing distribution via the Internet appears to be creating more commercial opportunities, and much child pornography is now produced and sold for profit through the Internet. As a result of relatively easy and supposedly anonymous access, more people who might not be defined technically as paedophiles or preferential abusers are said to be viewing, trading, downloading and keeping online child pornography. New technology is also facilitating the development and reach of well-organised networks of child sex abusers who also produce and distribute child pornography for profit. In addition, the technological sophistication

of the global distribution of child pornography over the net makes it more and more difficult for national law enforcement authorities to launch successful crackdowns and prosecutions locally.

Definitions of child pornography may seem similar, but there are variations in understandings between organisations and between states, as well as between sub-state jurisdictions. This has implications for law enforcement. For example, in many countries, legal definitions of pornography refer to definitions of obscenity that identify a wide range of different images, only some of which may be illegal, thus limiting the response of law enforcement. Similarly, in some countries it is assumed that there is no legal basis for the police to intervene or take action against the abusers and exploiters of a child if that child has reached the legal age of consent, which may be below 18. But, in keeping with the CRC, young people aged under 18 cannot be expected to give full and informed consent to the making of pornographic material. Again, the definition of a child is a critical issue in all matters related to child protection, and to child pornography specifically.

International Definitions

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Article 2(c). Entered into force on 18 January 2002.

Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or representation of the sexual parts of a child, the dominant characteristic of which is depiction for a sexual purpose. Definition

Council of Europe

Convention on Cybercrime. Budapest. 23.XI.2001. Article 9 (2).
'Offences related to child pornography'. 2001.

Definition 'Child pornography' shall include pornographic material that visually depicts: a) a minor engaged in sexually explicit conduct; b) a person appearing to be a minor engaged in sexually explicit conduct; c) realistic images representing a minor engaged in sexually explicit conduct.

Ofelia Calcetas-Santos

2nd Special Rapporteur of the UN Commission on Human Rights
on the sale of children, child prostitution and child pornography.
'Promotion and Protection of the Rights of Children: Sale of children,
child prostitution and child pornography'. A/50/456. Par. 22 (d).
20 September 1995.

Definition The visual or audio depiction of a child for the sexual gratification of the user, and involves the production, distribution and/or use of such material

UN

Cited in *Definitions of Child Sexual Exploitation and Related Terms*.
NGO Group for the Convention on the Rights of the Child. 2000.
(Out of print.)

Definition Child pornography is visual or audio material which uses children in a sexual context. It consists of the visual depiction of a child engaged in explicit sexual conduct, real or simulated, or the lewd exhibition of the genitals intended for the sexual gratification of the user, and involves production, distribution and/or use of such material.

UNICEF

'Child Protection: Child Sexual Exploitation, Nature of the

Problem'. <http://www.unicef.org>. Accessed: January 2004.

Sexual abuse becomes sexual exploitation when a second party benefits – through making a profit or through a quid pro quo – through sexual activity involving a child. This may include prostitution and child pornography.

Definition

NGO Definitions

Child Wise

'About CSEC: Child pornography'. Child Wise. <http://www.ecpat.org>. Accessed: January 2004.

Pornography, like prostitution, is a problematic term which is difficult to define. There is no uniform national or international definition. Understandings of child pornography are determined by differing moral, cultural, social and religious beliefs both between and within societies. Even legal definitions of the terms 'child' and 'pornography' differ globally and vary even within the same country.

Definition

Child Wise defines child pornography as sexually explicit reproductions of a child's image including sexually explicit photographs, negatives, slides, magazines, movies, videotapes and computer disks. It is the use, production and distribution of visual, digital and audio materials that use children in a sexual context. You cannot produce child pornography without sexually abusing a child.

Child pornography is becoming increasingly linked to the Internet, which provides new means to produce and distribute images secretly and globally.

ECPAT International

Questions and Answers about the Commercial Sexual Exploitation of Children. ECPAT International. Thailand. 2001.

Definition This can include photographs, negatives, slides, magazines, books, drawings, movies, videotapes and computer disks or files. Generally speaking there are two categories of pornography: soft core which is not sexually explicit but involves naked and seductive images of children and hard core which relates to images of children engaged in sexual activity. The use of children in the production of pornography is sexual exploitation.

Save the Children Sweden

‘Some common questions and answers about child pornography on the Internet – FAQ’. In ‘Save the Children Sweden’s Hotline against child pornography’. Save the Children Sweden. <http://www.rb.sa/hotline/>. Accessed: June 2004.

Definition What Save the Children considers to be child pornography consists in illegal documents – most often photographs or films – showing the sexual encroachment of people who are clearly sexually immature. We also consider pictures and films to be child pornography when they are clearly intended in their context to exploit children sexually, even if they do not directly show sexual encroachment.

5. TRAFFICKING IN CHILDREN

An estimated 1.2 million children are trafficked around the world every year while about 2800 are forced into prostitution every day. The reasons children are trafficked include for their labour, for sexual exploitation, for the transfer of organs and for illegal adoption. Despite increased international, regional and national laws to prevent and address the crime of trafficking, children remain vulnerable.

Until quite recently, there was no internationally agreed definition for trafficking, which has often been confused with smuggling. However, since the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons in 2001, and specifically Article 3(a), this confusion should have been mitigated.

Under the Protocol, “Trafficking means: the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

In brief, trafficking is the use of force to control people for the purpose of exploitation, an activity that commonly targets children because of their age and maturity level. A clear and agreed understanding of trafficking is important in emphasising the vulnerability and exploitation of the trafficked victim and the crime of the trafficker.

Children should never be criminalised for being trafficked and can never consent to be trafficked. National governments are urged to ratify the Protocol and to implement domestic legislation that incorporates its comprehensive definition.

Trafficking compounds the vulnerability of children because they are removed from familiar support structures and transplanted to a place outside their family and community. Trafficking occurs both within countries and across borders. It may mean removing a child from a rural setting and taking them to a city, or it may mean taking them from one country to another. This can result in children being isolated by language and culture.

Trafficking and the related exploitation of the victim are distinct from smuggling and kidnapping and should be understood differently. According to the UN General Assembly, smuggling of a migrant is defined as “the procurement, in order to obtain directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident.”² Smuggling, like trafficking, is illegal under international law and a smuggler is subject to prosecution under most domestic jurisdictions.

Policies at all levels, especially as they pertain to children who are trafficked and smuggled, are needed. But they must be constructed in such a way that punitive measures are taken against traffickers rather than their victims. Finally, the conditions that make children vulnerable to these practices and the economic and security needs that make trafficking and smuggling operations possible must be addressed.

International Definitions

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organised Crime. Article 3. 2001.

- (a) Trafficking means: the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; ...
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purposes of exploitation shall be considered trafficking in persons even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) Child shall mean any person under eighteen years of age.
- Definition

ILO/IPEC

Combat the Trafficking of Children. ILO/IPEC. Geneva. 2002.

Under international law trafficking is a crime involving the movement of children and their exploitation. The movement may be voluntary or coerced; the relocation may be across borders or within a country; and the exploitation can take several different forms; labour, prostitution and in some cases for use in armed conflicts.

Definition

International Organization for Migration

'Trafficking in Migrants: IOM Policies and Responses'. IOM. 2000.

<http://www.iom.int>

Definition Any illicit transporting of migrant women and/or trade in them for economic or other personal gain. This may include the following elements:

- Facilitating the illegal movement of migrant women to other countries, with or without their consent or knowledge;
- Deceiving migrant women about the purpose of the migration, legal or illegal;
- Physically or sexually abusing migrant women for the purpose of trafficking them;
- Selling women into, or trading in women for the purpose of, employment, marriage, prostitution or other forms of profit-making abuse.

Transnational Training Seminar on the Trafficking in Women Network Women's Program of the Soros Foundation and Global Survival Network (coordinators). Budapest. June 1998.³

Definition Trafficking consists of all acts involved in the recruitment or transportation of persons within or across borders, involving deception, coercion or force, debt bondage or fraud, for the purpose of placing persons in situations of abuse or exploitation, such as forced prostitution, slavery-like practices, battering or extreme cruelty, sweatshop labour or exploitative domestic servitude.

UN

Cited in *Definitions of Child Sexual Exploitation and Related Terms*. NGO Group for the Convention on the Rights of the Child. 2000. (Out of print.)

The transfer of a child from one party to another for whatever purpose in exchange for financial consideration or other rewards. Definition

UN

‘Traffic in Women and Girls’. General Assembly. Resolution 49/166. Adopted at the 94th plenary meeting. 23 December 1994.

The illicit and clandestine movement of persons across national and international borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploitative situations for the profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment and false adoption. Definition

UNICEF

‘Child Protection: Child Trafficking, Nature of the Problem’. UNICEF. <http://www.unicef.org>. Accessed: January 2004.

Trafficking is a term used to describe the illegal trade across borders of goods – especially contraband, such as drugs – for profit. Over the last decade, the concept has been expanded to cover the illegal transport of human beings, in particular women and children for the purpose of selling them or exploiting their labour. Definition

World Congress against Commercial Sexual Exploitation of Children

Congress Documents. Stockholm. 1996.

The illegal moving and selling of human beings across countries and continents in exchange for financial or other compensation. Definition

NGO Definitions

Anti-Slavery International

'What is trafficking? Q&A'. <http://www.antislavery.org>. Accessed: May 2004.

Definition Human trafficking involves the movement of people through violence, deception or coercion for the purpose of forced labour, servitude or slavery-like practices.

It is slavery because traffickers use violence, threats, and other forms of coercion to force their victims to work against their will. This includes controlling their freedom of movement, where and when they will work and what pay, if any, they will receive.

Child Wise

'About CSEC: Trafficking'. Child Wise. 2003. <http://www.ecpat.org>. Accessed: January 2004.

Definition Trafficking is defined as the transporting of a person from one place to another through means of deception, kidnapping, actual, threatened or implied violence, and/or the abuse of individuals actual or perceived by a person in a position of authority, eg immigration officer, police officer, etc. An individual may be trafficked for the purposes of domestic employment, work in the commercial sex industry, manual labour, arranged marriage etc. The term trafficking implies a profit arising from the transportation of the child, which can occur across borders or within countries, across State lines, from city to city and from rural to urban areas.

The Global Alliance Against the Trafficking of Women

2004. <http://www.inet.co.th/org/gaatw> Accessed: January 2004.

Definition The recruitment and transportation of (a) person(s) within and

across national borders, by means of violence or threat of violence, abuse of actual or perceived authority arising from a relationship, or deception, in order to subject them to the actual and unlawful power of (an)other person(s).

Global March Against Child Labour

Out of the Shadows: A Worldwide Report on the Worst Forms of Child Labour. India. 2000.

Child trafficking refers “to any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”. This category is qualitatively different from the others in that it refers to the process that puts children in a situation of commercial exploitation. Many of them end up working as slaves, prostitutes, soldiers, etc. In a case such as children trafficked into prostitution, data in the report is listed under both “child trafficking” and “child prostitution” so that each category stands on its own. Child trafficking does not include cases of kidnapping where there is no commercial consideration.

Definition

Human Rights Watch

‘Women’s Rights: Campaign Against the Trafficking of Women and Girls’. <http://www.hrw.org>. Accessed: June 2004.

Trafficking in persons - the illegal and highly profitable recruitment, transport, or sale of human beings for the purpose of exploiting their labour - is a slavery-like practice that must be eliminated.

Definition

Endnotes

² UN General Assembly. Protocol Against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the UN Refugee Convention Against Transnational Crime. G.A. Res. 55/25. Annex III, 55 UN. GAOR Supp. (No. 49) at 65. UN Doc. A/45/49 (Vol. I.) 2001.

³ Ofelia Calcetas-Santos, the Second Special Rapporteur, considers this definition to be the most workable, although she expresses reservations as to whether trafficking always places the victim in a worse position than that held previously.

6. CHILD SEXUAL ABUSE

The definitions given in this section refer to non-commercial sexual abuse. Definitions of child sexual abuse are numerous. Some are succinct, others are more detailed and describe the specific activities that constitute this form of abuse. Sexually abusive activities do not necessarily involve bodily contact between a child and their abuser. ‘Non-contact’ abuse can involve exhibitionism or voyeurism, such as an adult watching a child bathe or undress, or an adult forcing two or more children to engage in sexual activities with one another, as well as filming or observing them.

In general, the definitions here are based on a growing body of knowledge and experience in western societies, as the nature and extent of child sexual abuse there have become better understood. “Children are most commonly abused by someone they know, usually a member of their family, more rarely by a stranger.”⁴ These definitions link into the need to protect children and to act against perpetrators of abuse, and seek to describe the impact, both short and long term, that sexual abuse can have on a child.

A first impression may indicate that sexual abuse of children within the family environment in non-western societies is not so widespread.⁵ It is not known, however, whether this is indeed the case or is due to a lack of reporting or awareness about abuse. Cultural and social factors especially have been noted as contributing to sexual abuse and exploitation of girls and women in particular, with the abuse hidden, ignored or considered to be a part of normal experience.

When one reads definitions of child sexual abuse, certain common themes emerge that characterise the abuse and its immediate and

possible future impact on a child.

- Sexual abuse of a child is rarely a single event nor, most importantly, in any way spontaneous. High-profile cases where children have been abducted are not the norm. “Offenders often prime and control their victims through a process known as ‘grooming’, which can occur over a short period or over a number of years. Grooming has the dual purpose of securing the cooperation of the victim, and sometimes that of the victim’s carers, and of reducing the risk of discovery or disclosure by creating an atmosphere of normality and acceptance. The latter can pose difficulties once offences come to light, with victims refusing to cooperate with an investigation, believing that the offender has done nothing wrong. Some offenders are known to show children images of child abuse and adult pornography to make their victims more susceptible to abuse. Victims have also been groomed to introduce further victims to the process of grooming and abuse.”⁶ It is important to emphasise the process of grooming, and the extent to which an abuser, from the outset, has no regard for the feelings of the child, but is preparing to use him or her for self-gratification.
- Children are forced or coerced to comply with an abuser out of fear, guilt or confusion. They are controlled by the abuser through the giving or withholding of rewards, whether in the form of gifts or attention. In some cases, violence or threats – that other family members will be harmed, or that a child will be taken from their family, for example – are used to force a child to comply with the abuse. A child’s sense of guilt may be preyed upon to make him or her think that in some way they have caused the abuse by their own behaviour towards the abuser.

- The process of grooming and controlling a victim implies that a relationship of trust has developed between a child and an abuser. Abusers are most often people who have a responsibility in some capacity for the child's safety and well-being. Because of their age and role in relation to the child, the relationship is also one of power. Thus, over and above the sexual abuse that a child experiences, there is also an abuse of their trust; their sense of confidence that those who are in relationships of power and responsibility will protect them is undermined. When children do report abuse, often their credibility is called into question, and their trust and confidence is again abused.
- Child sexual abuse is an ongoing, developing process. It can continue over a prolonged period, with the likelihood that the acts involved become increasingly more severe. The younger the child who is being abused, the less able they will be to understand the abuse. Many children learn that sexual abuse is something that people will and can do to their bodies. This in turn can result in longer-term vulnerability to further abuse. This situation can apply also to children with mental and physical disabilities, whose vulnerability puts them at greater risk of abuse.

Internet grooming

A more recent phenomenon is Internet grooming, whereby an adult deliberately sets out, using Internet chatrooms, to prepare or 'groom' a child for a subsequent meeting with the intention of sexually abusing a child. This has recently been declared a criminal offence in several countries, including Britain. There are considered to be five stages to the process of grooming a child via the Internet.⁷

1. *Friendship*: Flattering a child into talking in a private chatroom where he or she will be isolated. The child will often be asked to provide a non-sexual picture of themselves.
2. *Forming relationships*: Asking a child about their problems in order to create an illusion of being their best friend.
3. *Risk assessment*: Asking a child about the location of their computer and who else has access to it in order to assess the risk of being detected.
4. *Exclusivity*: Building up a sense of mutual love and trust with the child, suggesting that they can discuss “anything”.
5. *Sex talk*: Engaging a child in explicit conversations and requesting sexually explicit pictures from them. At this stage, the abuser will usually try to arrange a meeting with the child.

Organised child sex abuse

Organised groups of sex offenders are relatively rare. However, there is extensive criminal networking. Offenders network in order to exchange indecent images and fantasies, to gain access to victims, and to justify and ‘normalise’ their sexual desire for children. For example, networks provide positive reinforcement that child pornography is acceptable. Where offenders are able to establish relationships with like-minded individuals, for example through being imprisoned together, it is possible for networks to form. The arrival of the Internet, however, has changed the nature and extent of networking, making it possible to network on a much wider scale and, if security measures are taken, with less risk.⁸

International Definitions

UN

Cited in *Definitions of Child Sexual Exploitation and Related Terms*.
NGO Group for the Convention on the Rights of the Child. 2000.
(Out of print.)

Sexual abuse of children can be defined as contacts or interactions between a child and an older or more knowledgeable child or adult (a stranger, sibling or person in a position of authority, such as a parent or caretaker) when the child is being used as an object of gratification for an older child's or adult's sexual needs. These contacts or interactions are carried out against the child using force, trickery, bribes, threats or pressure. Sexual abuse can be physical, verbal or emotional and includes:

Definition

- a) Touching and fondling of the sexual portions of the child's body (genitals and anus) or touching the breasts of pubescent females, or the child's touching the sexual portions of a partner's body;
- b) Sexual kissing;
- c) Penetration, which includes penile, digital, and object penetration of the vagina, mouth or anus;
- d) Exposing children to adult sexual activity or pornographic movies and photographs;
- e) Making lewd comments about the child's body;
- f) Having children pose, undress or perform in a sexual fashion on film or in person (exhibitionism);
- g) 'Peeping' into bathrooms or bedrooms to spy on a child (voyeurism).

UNESCO

'Redefining the jargon'. *Sexual Abuse of Children, Child Pornography and Paedophilia on the Internet: An international challenge*. Expert Meeting. Paris. 18-19 January 1999. <http://www.unesco.org>. Accessed: June 2004.

Definition Sexual abuse of children refers to the persuading or forcing of children (as determined by the legal age of majority) to engage in implicit or explicit sexual acts, alone or with another person of any age, of the same sex or the opposite sex.

UNICEF

'Child Protection: Child Sexual Exploitation, Nature of the Problem'. UNICEF. <http://www.unicef.org>. Accessed: January 2004.

Definition Child sexual abuse is the involvement of a child in a sexual activity to which he or she is unable to give informed consent (and may not fully comprehend), or for which the child is not developmentally prepared and cannot give consent, or which violates the laws or social taboos of society.

UN Secretariat

'Secretary-General's Bulletin'. ST/SGB/2003/13. 9 October 2003.

Definition ... Similarly, the term sexual abuse means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

WHO

'Report of the Consultation on Child Abuse Prevention'. WHO. Geneva. 1999.

Definition Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared

and cannot give consent, or that violates the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. This may include but is not limited to:

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

WHO

Violence Against Women: The Girl Child. WHO. Geneva. 1997.

Child sexual abuse is an abuse of power that encompasses many forms of sexual activity between a child or adolescent (most often a girl) and an older person, most often a man or older boy known to the victim. The activity may be physically forced, or accomplished through coercive tactics such as offers of money for school fees or threats of exposure. At times, it may take the form of breach of trust in which an individual, such as a religious leader, teacher or doctor, who has the confidence of the child, uses that trust to secure sexual favours.

Definition

Action for the Rights of Children

Resource Pack on Abuse and Exploitation. International Save the Children Alliance with UNHCR, UNICEF, OHCHR. 2001.

Sexual abuse should be understood not only as violent sexual assault but also other sexual activities, including inappropriate touching, where the child does not fully comprehend, is unable to give informed consent or for which the child is not developmentally prepared.

Definition

NGO Definitions

Women's World Summit Foundation. 2003.

Definition Girls and boys under the age of 18 are sexually abused when one or more persons engage them in any activity for the purpose of their sole sexual pleasure. Sexual abuse is NOT synonymous with sexual violence. The abuser does not necessarily use force but uses manipulation, coercion and pressure on the child to comply.

Childhelp USA

'Major forms of child abuse' in 'What is Abuse?' Childhelp USA. 2004. <http://www.childhelpusa.org>.

Definition Any sexual act between an adult and child. This includes fondling, penetration, intercourse, exploitation, pornography, exhibitionism, child prostitution, group sex, oral sex, or forced observation of sexual acts.

Women's Resource Center

'About Sexual Assault'. Women's Resource Center. Pennsylvania, US. <http://www.womensrescenter.com>. Accessed: January 2004.

Definition Sexual abuse of children is any manual, oral, or genital contact between an adult and a child where the child is unable to change or understand the adult behaviour because of lack of power or psychological development.

Endnotes:

⁴ Department of Health, Social Services and Public Safety. *Working Together to Safeguard Children*. Britain. 1999.

⁵The UNICEF definition in the section on child prostitution (see page 12) describes the point at which sexual abuse becomes sexual exploitation.

⁶National Criminal Intelligence Service. 'Threat Assessment of Serious and Organised Crime 2003'. No. 9. Britain. 2003.

⁷D. Batty. 'Internet grooming: the five stages'. *The Guardian*. Britain. 17 July 2003. Citing Rachel O'Connell. *A Typology of Child Cyberexploitation and Online Grooming Practices*. Cyberspace Research Unit. University of Central Lancashire. Britain. 2003. <http://society.guardian.co.uk>

⁸Op. cit. National Criminal Intelligence Service.

7. PAEDOPHILIA

Paedophilia is a clinical term for adults who are primarily sexually attracted to prepubertal children. The commonly cited *Diagnostic and Statistical Manual of Mental Disorders* describes paedophilia as “the act or fantasy of engaging in sexual activity with prepubertal children as a repeatedly preferred or exclusive method of achieving sexual excitement . . . Isolated sexual acts with children do not warrant the [clinical] diagnosis of paedophilia”.⁹ The manual adds that a person who fits this diagnosis would have to be at least 16 years old and five years older than the child to whom their sexual fantasies are directed. Technically, only a qualified psychologist or psychiatrist could be expected to diagnose paedophilia.¹⁰

Paedophiles may focus on either boys or girls, or have no gender preference. Not all paedophiles sexually abuse or harass children. Some may have fantasies about sex with children but they do not act them out with a child (although they may use child pornography). Others may abuse children in different ways, including non-physical sexual abuse and exploitation. While the wider society tends to regard the paedophile profile as that of a predatory stranger, it is more common for children who are abused by paedophiles to suffer this abuse within a familiar environment at the hands of family, friends, relatives or babysitters.¹¹ Most clinically definable paedophiles are male; female paedophiles exist but are rare. Generally, paedophiles do not regard their sexual interaction with children as harmful.

Clinical paedophilia is diagnosed on the basis of persistent fantasies or sexual urges towards children. As a result, paedophilia in itself is not deemed a criminal offence, as it need not involve criminal sexual acts with children. Recent debates within the psychiatric and mental

health community regarding the classification of paedophilia as a mental disorder have highlighted the fact that the term was evolved as a diagnostic category mainly for clinical and research purposes and therefore it does not meet criteria for use as a legal term. This means that sexual crimes committed by paedophiles against children are not legally referred to as paedophilia, as the term refers to the clinical condition of the offender and not the criminal offence.

Closely associated with paedophilia is the term 'preferential abuser', which refers to people who focus on pubescent children as sexual partners or objects. This kind of sexual preference is also regarded within medical circles as a personality disorder, otherwise known as hebephilia or ephhebophilia.

Nevertheless, the term 'paedophile' is commonly applied in a more general sense to refer to all adult sexual attraction and sexual acts against children regardless of the physical maturity of a child (that is, whether or not a child is biologically prepubescent) and irrespective of the 'clinically defined' status of the abuser and the context in which the abuse occurs. This broadening of the clinical term beyond the biological focus has occurred in the context of international efforts to strengthen the protection of children through harmonisation of national laws and the Convention on the Rights of the Child, which defines a child as any person up to the age of 18.

Legal and law enforcement agents tend to blur the distinction between the sexual abuse of children by paedophiles and by non-paedophiles, treating all offenders convicted of sexual crimes against children as 'paedophiles' and also adopting a more socio-legal definition of 'child'. Health-care professionals also commonly refer to preferential sexual abuse of children as paedophilia. The US Federal

Bureau of Investigation (FBI), for example, defines a paedophile as: “A significantly older person who prefers to have sex with persons who according to the law are children. His sexual fantasies are focused on children.”¹² This definition highlights that legal and law-enforcement agents use the term to focus on the age of the victim and the behaviour of the abuser. Although paedophilia in itself is not usually deemed a criminal offence, it is often associated with crimes against children, including sexual abuse and pornography-related offences.¹³

Paedophile involvement with child pornography ranges from using children to make it (either for individual consumption or wider commercial and non-commercial distribution) to employing it as part of a process of ‘grooming’ a child, whereby the abuser manipulates and coerces a child into sexual contact, lowering their inhibitions by introducing them to pornography. Pornography-sharing is a critical component of paedophile networks, membership of which presumably helps paedophiles to rationalise and normalise their understanding of their sexual preferences. (It should be noted, however, that not only paedophiles or even preferential abusers make and access child pornography.) These paedophile groups share information and, aside from dealing in pornography, may operate as organised international child abuse networks. New technology now plays a critical role in facilitating this sharing of pornography and information, while also providing committed paedophiles with access to more children via the Internet, especially through chatrooms that are popular with children. At the same time, the Internet is said to be playing a key role in encouraging an interest in child pornography among people who might not see themselves as having a specific interest in child sex. The relatively easy access to depictions of child abuse fuels sexual fantasies about children and is believed to play

an important part in contributing to or reinforcing paedophile behaviour.¹⁴

The misuse of terminology results in confusion about the profile of child sexual abusers, most of whom are not, technically speaking, paedophiles or even preferential abusers. The majority of child sex abusers are situational abusers. They are usually men who use a child for sex because the child is made available to them, most commonly through prostitution or within the family. The situational abuser does not usually have a specific sexual preference for children. Situational abusers are generally regarded as opportunistic and indiscriminate, though it may nevertheless be the case that they prefer as a sexual partner someone who fulfils socially defined ideals of beauty and sexuality, such as looking young and/or physically immature. Public perceptions of those labelled paedophiles as a marginal group of people who seek sex with children may, in fact, deflect attention from the increasing sexualisation of children, especially girls, in various cultures, as well as the prevalence of sexual abuse and exploitation among the general population.¹⁵

The common link between all sexual abusers of children is that they have sexual encounters with a child or young person who is, or appears to be, vulnerable, immature and powerless. These encounters include the use of child pornography. As such, the terms paedophile or preferential abuser should be used very warily and in a way that does not shield the majority of child sexual abusers who are not defined as suffering from a clinical disorder.

International Definitions

UNESCO

'Redefining the jargon'. *Sexual Abuse of Children, Child Pornography and Paedophilia on the Internet: An international challenge*. Expert Meeting. Paris. 18-19 January 1999.

<http://www.unesco.org>. Accessed: June 2004.

Definition Most dictionaries define paedophilia as a sexual aberration or perversion in which the preferred sexual objects are prepubescent children, usually under the age of 13. Paedophilia is thus a synonym for the sexual abuse of children. Because this is usually understood as a psychiatric description, law enforcement agents often employ a broader definition of paedophilia to include adults who have a sexual attraction for persons legally considered children.

NGO Definitions

Stop It Now, UK.

Women's World Summit Foundation. 2003.

Definition ...a paedophile is a person with an exclusive or primary sexual interest in pre-pubescent children.

Endnotes:

⁹ American Psychiatrists' Association. *Diagnostic and Statistical Manual of Mental Disorders*. Fourth Edition Text Revision (DSM-IV-TR). American Psychiatrists' Association. Washington DC. 2000.

¹⁰ J. O'Connell Davidson. *The Sex Exploiter*. ECPAT. Stockholm. 1996.

¹¹ M. James. 'Paedophilia'. *Trends and Issues in Crime and Criminal Justice*. No. 57. Australian Institute of Criminology. June 1996.

¹² Interpol. *Handbook on Good Practice for Specialist Officers Dealing with Crimes Against Children*. INTERPOL Standing Working Party on Offences against Minors. 1997.

¹³ M. James. Op. cit.

¹⁴ J. Carr. *Child abuse, child pornography and the internet*. NCH. UK. 2004.

¹⁵ L. Kelly. 'Weasel Words: Pedophiles and the Cycle of Abuse'. *Trouble and Strife*. No. 33. 1996.

8. COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

The commercial sexual exploitation of children is a fundamental violation of human rights and children's rights. The key element is that this violation of children and their rights arises through a commercial transaction of some sort. That is, there is an exchange in which one or more parties gain a benefit – cash, goods or in-kind – from the exploitation for sexual purposes of someone under the age of 18.

The significance of defining in-kind transactions as commercial in nature should not be underestimated, not only because they are very common, but also because there is a tendency to view some such transactions as entailing consent on the part of a child. This includes cases where sexual exploitation occurs in exchange for protection, a place to sleep, or access to higher grades and/or promotion. The sexual exploitation of the child may profit a much wider range of people than the immediate beneficiary of the transaction. The remuneration factor distinguishes the concept of commercial sexual exploitation of children from the sexual abuse of a child where commercial gain is apparently absent, although sexual exploitation is also abuse. At the same time, it must be noted that there is a clear link between non-commercial sexual abuse of a child and the increased vulnerability of an abused child to commercial sexual exploitation.

The conceptual distinction, however, is not always clarified or agreed upon. Yet effective counter-action requires that the concept and reality of the commercial sexual exploitation of children be well-understood by all agents and communities at large as a particular form of abuse that requires a different kind of preventive approach

than measures aimed solely at eliminating non-commercial sexual abuse of children. This is even as counter-measures against all forms of sexual abuse need to be complementary and holistic.

That said, there are crimes committed against children that are widely understood to involve commercial sexual exploitation. Many of these crimes are interlinked: the prostitution of children, trafficking of children for sexual purposes, and child pornography (although pornography may also be distributed for no commercial gain). Child sex tourism generally falls into the category of prostitution (although its nature as such is not always clear), and it links into trafficking and the use of children to make pornography.

More contentious is the classification of child marriages and forced marriages as a form of commercial sexual exploitation of children. With the age of majority in countries around the world ranging from nine to 18, it is possible for a child to be legally contracted in marriage as a sexual partner. Such marriages generally involve members of the child's family contracting an exchange for a child as a sexual partner in exchange for a dowry and/or other financial or in-kind consideration.

Other more hidden forms of commercial sexual exploitation of children include domestic servitude and/or bonded labour where a child is contracted to provide work and this is understood to include the child being used for sexual purposes.

The definition and understanding of the commercial sexual exploitation of children, and its many forms, have evolved in recent years in accordance with greater analysis and newly acquired knowledge. Commercial sexual exploitation is increasingly seen to

apply to many situations, such as child marriages, where there may have been a failure in the past to focus analysis on the contractual or commercial exchange that allows for sexual exploitation. In line with this, the concept of the exploiter has also been sharpened, highlighting the wide variety of people who contribute to the exploitation of a child: parents and other family members, friends, peers and teachers, as well as procurers, brothel managers, traffickers and those who engage in sex with a child.

Commercial sexual exploitation of children is complex and our attempt to define it by reducing the term down to the phenomenon's core attributes must not result in minimising the focus on all specifics and the significant factors at play. For example, the descriptive term 'commercial sexual exploitation' does not always bring to mind quickly the violence inflicted in its practice. As well, the term's focus on children as victims of exploitation may inadvertently shift attention from the perpetrators. As such, it is critical that use of the term 'commercial sexual exploitation of children' always be explained and expanded upon, in any context.

International Definitions

UN

Cited in *Definitions of Child Sexual Exploitation and Related Terms*.
NGO Group for the Convention on the Rights of the Child. 2000.
(Out of print.)

Definition The use of a child for sexual purposes in exchange for cash or in-kind favours between the customer, intermediary or agent and others who profit from the trade in children for these purposes

UNICEF

‘Child Protection: Child Sexual Exploitation, Nature of the Problem’. <http://www.unicef.org>. Accessed: January 2004.

Sexual abuse becomes sexual exploitation when a second party benefits – through making a profit or through a quid pro quo – through sexual activity involving a child. Definition

WHO

Violence Against Women: The Girl Child. Geneva. 1997.

Commercial or other exploitation of a child refers to use of the child in work or other activities for the benefit of others. This includes, but is not limited to, child labour and child prostitution. These activities are to the detriment of the child’s physical or mental health, education, or spiritual, moral or social-emotional development. Definition

World Congress against the Commercial Sexual Exploitation of Children.

Declaration and Agenda for Action. Stockholm. 1996.

The commercial sexual exploitation of children is a fundamental violation of children’s rights. It comprises sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object. The commercial sexual exploitation of children constitutes a form of coercion and violence against children, and amounts to forced labour and a contemporary form of slavery. Definition

NGO Definitions

ECPAT International

Questions and Answers about the Commercial Sexual Exploitation of Children. ECPAT International. Thailand. 2001.

Definition The commercial sexual exploitation of children consists of practices that are demeaning, degrading and often life threatening to children. There are three primary and interrelated forms of commercial sexual exploitation of children: prostitution, pornography, and trafficking for sexual purposes. Other forms of sexual exploitation of children include child sex tourism, child marriages and forced marriages.

The Women's World Summit Foundation. 2003.

Definition Commercial sexual exploitation covers prostitution domestic servitude and/or bonded labour, trafficking and pornography. Commercial sexual exploitation is an extreme form of sexual abuse and a particularly insidious form of child labour.

9. WHO IS A CHILD?

The Convention on the Rights of the Child has traditionally been used by the international child rights community to help define the period known as childhood. Under Article 1 of the Convention, a child is defined as:

... every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

Since the CRC was introduced, the International Labour Organization's Convention No. 182 on the Worst Forms of Child Labour has also entered into force. It states that under that Convention, all those aged below 18 should be regarded as children and it makes no allowances for national legislation that sets childhood at a different age. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children also states that all those aged below 18 are recognised as children.

Certainly within the international child rights NGO community, the age of 18 years has gained acceptance as the appropriate age for determining childhood. In its jurisprudence, the Committee for the CRC has also consistently recognised 18 as the most appropriate age by which to determine who is a child.

Where ages other than 18 are used to define a child, protection of children from sexual exploitation and related forms of violence highlighted in this publication becomes difficult. This is especially true when children cross international borders and may not be subject to the same levels of protection between states.

The CRC ensures additional protection provisions for children on the basis of their age. That all those aged below 18 may be denied these protections simply because national governments set their age of majority earlier is deeply concerning. Cultural and ideological debates that occurred during the development of Article 1 of the CRC led to a weakened and politically accommodating interpretation. Walking away from a straight commitment that determines all children to be anyone aged under 18 years has seriously increased the vulnerability of children to violence and exploitation.

A consistent and internationally agreed definition on who is a child will help to protect children against sexual abuse wherever it is likely to occur. In addition, obligations for governments are created by consistent acknowledgement of the additional social protections that are the rights of all those aged under 18. These obligations relate to protection from violence and abuse, and also promote participation and access to basic rights such as education and health.

Establishing a consistent age to define childhood also has implications for the manner in which child victims are dealt with under the law. Children can never consent to being exploited and abused, therefore they should never be considered as 'sex workers' or labelled as 'child prostitutes'. Children should always be understood as victims before the law, not as criminals. This issue also goes to the heart of societal interpretations regarding the way in which a child is perceived by an adult within a society. Within communities, if a child is seen to be no different to an adult, things such as child marriage and child pornography become acceptable.

Having an agreed, consistent and internationally recognised age of majority is important for protecting children. Setting 18 as that

agreed age in no way undermines the rights of children to participate in the decisions that affect them, to voice their opinions and to be heard. Indeed, the CRC clearly articulates such provisions.

While this publication does not undertake an analysis of national legislation, there are states in which the age of majority is well below 18 years, even as low as nine, and others where protection measures do not apply through to 18. In order to protect all children most effectively from sexual violence and to promote their rights, an internationally accepted age limit of 18 should be utilised to define who is a child.

International Definitions

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organised Crime. Article 3 (d). 2000.

Child shall mean any person under eighteen years of age.

Definition

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Article 2. (ILO No. 182.) Entry into force 19 November 2000.

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

Definition

Convention on the Rights of the Child. Article 1. Entry into force 2 September 1990.

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

Definition

NGO Definitions

World Vision International
'Public Policies'. January 2003.

Definition A child is defined as anyone below the age of 18. Although the Convention on the Rights of the Child allows for an adjustment to this standard through national legislation, World Vision takes 18 as the legal limit in reflection of standards recognised in international law (including in ILO Convention No. 182, the Convention on Trafficking and the jurisprudence of the Committee on the Rights of the Child).

10. WORST FORMS OF CHILD LABOUR

Since the adoption and entry into force of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, debates around what constitutes the worst forms of child labour have lessened. Debates, however, do remain in relation to Article 3 (d), which refers to "... work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."

Unlike the earlier sub-sections under Article 3, the specific labour that this might include is not listed. In this way, definitional concerns arise. Definitional uncertainty in this area can have substantial implications for both legal obligations under Convention No. 182 and programmatic and policy responses. While governments are encouraged to define in national legislation their own worst forms of child labour, this can result in differences across countries.

Many NGOs have attempted to provide more specific guidelines on the worst forms of child labour and have looked at such things as hours of work, the environment in which children work, the nature of the work itself, the ability of children to attend school or make use of other educational opportunities, and the long-term developmental impacts upon the child. Such understandings, however, can vary between NGOs, governments and UN agencies. Clear understandings between all stakeholders, including children and their families, must be established.

In addition, serious debate remains about describing such things as trafficking in children and using children for prostitution or for pornographic purposes as types of labour – albeit a worst form – as

opposed to criminal activities. Many child rights NGOs have argued that to define such activities as labour compromises the protection rights of children and minimises the gravity of these offences. The ILO, however, has consistently argued that Convention No. 182 does neither, but rather, provides an additional layer of protection to children, because all worst forms of labour should be illegal by their very nature and by obligations under the convention.

Debates continue about whether the perceived definitional differences – labour or crime – result in protection gaps for children. Further, whether such things as the prostitution of children are counted statistically as a form of labour or counted by another measure may affect overall understandings of such activities. In addition, regional understandings and differences between countries could be confused depending on the definitions applied.

While Convention No. 182 has assisted in clarifying some of the debate around the most exploitative child labour, other forms of child labour and child work, it has not quelled the debates completely. In addition, it has fuelled new discussions about the nature of activities children are forced to undertake.

International Definitions

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Article 3. (ILO No. 182.) Entry into force 19 November 2000.

Definition For the purposes of this Convention, the term *the worst forms of child labour* comprises:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

International Labour Conference

Recommendation 190. II Hazardous Work. International Labour Conference. 87th Session. Geneva. June 1999.

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to: Definition

- a) work which exposes children to physical, psychological or sexual abuse;
- b) work underground, under water, at dangerous heights or in confined spaces;
- c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

NGO Definitions

Defence for Children International

'DCI Position Paper on Child Labour: A Contribution to Debate and Practice'. February 2002.

Definition DCI prefers to refer to the most intolerable or hazardous forms of work ... The most intolerable is the exploitation of children in hazardous working conditions, which endanger the lives of children or impede their healthy development. Given national differences, forms of intolerable and hazardous work may vary ... Some examples of dangerous conditions are: separation from their families; physical and sexual abuse; prostitution; bonded or slave labour; excessively long working hours; heavy loads; underground and underwater work as in the mine and fishing industries; exposure to pesticides and dangerous tools and equipment as in agriculture; danger in city streets including heavy traffic and pollution etc ...

Global March Against Child Labour

<http://www.globalmarch.org>. Accessed: 11 June 2004.

Definition Enter a world of horror and despair. Caught in a nightmare that never seems to end, millions of children endure the worst forms of child labour. Child Slavery. Child Prostitution. Child Trafficking. Child Soldiers. More than just words, these are part of the reality of our world today.

Human Rights Watch

'World Report'. New York. 2002.

Definition ... debt bondage, forced or compulsory labour (including forced recruitment into military service), prostitution and the production of pornography, and other work likely to "harm the health, safety or morals of children".

World Vision International

'Public Policies'. January 2003.

'Worst forms' of child labour as captured in ILO Convention 182. **Definition**

Such forms of labour are always highly exploitative and include prostitution, forced labour and the use of especially young children. These exploitative forms of labour can never be justified and require immediate action for elimination.

11. FORCED MARRIAGE

Forced marriage involves the marriage of anyone who is married against their will or who is required to marry without their full and informed consent. The critical issue is the question of consent of one or both parties, which may be altogether absent or given only under pressure. Forced marriages may occur between children, between a child and an adult, or between adults. Boys and men are often forced to marry against their wishes, particularly where family pressure is applied, but generally it is girls and women who are the victims of forced marriage and suffer its most severe consequences. Forced marriages come about through coercion, inducements, deception and abduction. In some cases, they amount to enslavement for the girl or woman spouse.

Forced marriage is strongly associated with child marriage because, when it comes to the marriage of a child, full and informed consent is absent or considered to be unnecessary. A distinction should be made, however, between the two concepts so that there is room on the one hand to highlight the concerns particular to the marriage of young people aged under 18 while also stressing, on the other hand, the various forms and degrees of force that may be used to arrange the marriage of both children and adults. So, while the terms 'forced marriage' and 'child marriage' may seem interchangeable, forced marriage is not necessarily child marriage, and the distinction should always be made clear. This clarification has added legal implications for then defining force as it applies to child marriage.

Like child marriage, various forms of forced marriage are practised or tolerated by many societies. The most common kind is where parents

or families formally arrange the marriage of children and young adults against their wishes. At the other end of the scale, there is little community toleration for more violent forms of forced marriage where girls and women are abducted by militias and ‘married’ through the ritual of violence and otherwise to soldiers for use as they see fit.

Many forced marriages, however, are centred on a commercial transaction, and as such they may be generally characterised as commercial sexual exploitation. Forced marriages become a form of commercial sexual exploitation of children when the marriage involves someone aged under 18. This is clearly apparent where third parties contract and transact economic exchanges in order to arrange a child marriage. Essentially, a price – in cash, goods or kind – is agreed upon and paid for a child as a spouse. The child is then available to their spouse for sexual purposes, among other things.

The commercial sexual exploitation of children through marriage is particularly overt in some cases, such as with short-term marriages known as *siqueh* in the Middle East and North Africa. These ‘marriages’, which may last from hours to months, have in effect become a pseudo-legal way for men to have sexual relations with children. This phenomenon has become highly commercialised in some places, with agents acting as brokers to facilitate dowry transactions by introducing families to ‘husbands’, whereupon a contract is drawn up between the two parties. Such marriages are technically illegal because they are not registered. But girls are often bought in this way, and later abandoned. In a sense, the use of the term ‘child marriage’ here should also be given the added emphasis of ‘force’ in order to stress the degree of violence and overtly mercenary nature of the practice.

Other forms of forced marriage, such as those arranged between families, may be enshrined in common law practice and given legal sanction within national legal codes. They are generally categorised as tradition and therefore rationalised as culturally appropriate. Where a child is involved, legal loopholes mean the legal status of children and adolescents forced into marriage is adapted so that married children are classified as adults. The apparent disharmony between national legal codes and a government's commitment to international instruments such as the Convention on the Rights of the Child is, however, made more ambiguous because the Convention allows for national law to set the age of majority below 18. As such, even where marriage is clearly forced upon a child, a government may not feel obliged to take preventive and protective action.

Harmonisation by States of the CRC's definition of a child is critical to ensure protection for children uniformly, particularly because of the globalisation of the exploitation of children. Cross-border arrangements for forced marriages and child marriages highlight the fact that this issue is not contained within national borders but has international implications, especially where the implementation of laws to protect children and their rights varies from one country to another. It may also be said that where national law allows for forced marriage and child marriage, it also effectively allows for the sexual abuse and exploitation of child spouses.

But no matter how the CRC is interpreted, forced marriage – in its various forms – contravenes basic human rights and international instruments that include articles reinforcing the right to marry based on free, full and informed consent.

International Definitions

Following an extensive search, no international legal definition has been found that specifically refers to forced marriage. (See *Section Two: Citations Within International Instruments* for a general reference.)

NGO Definitions

World Vision

Every Girl Counts: Development, Justice and Gender. World Vision. Canada. 2001. <http://www.wvi.org>

Any situation in which boys or girls are coerced, enticed, induced or tricked into marriage is wrong. Forced marriages are sometimes used to justify the sexual exploitation of children, especially young girls. Definition

12. INCEST

In undertaking a definitional analysis of incest, it is evident that the term is not well-defined by UN agencies (with the exception of the World Health Organization) or by NGOs, although it is used often. In view of this, the definitions provided below have been taken from some alternative sources, including academia and the public health sector, in order to provide a wider understanding of the term.

Traditionally, incest referred to sexual intercourse between blood relatives, persons considered too closely related to marry. Although marriage should not be confused with sex, in the past many societies permitted sexual relations only within the bounds of marriage. Hence rules regarding marriage were the same as rules regarding sex.

In western society in particular, definitions of incest now emphasise the imbalance of power and the betrayal of trust that is implicit when sexual acts are committed by an individual who has authority over a child, and with whom that child has developed an emotional bond. Thus the traditional definition of incest has been expanded to include as perpetrators not only members of a child's immediate or extended family, but other persons in positions of responsibility and/or authority, including babysitters, school teachers, Scout masters, members of the clergy and others. This broad definition of incest is essentially equivalent with definitions of child sexual abuse.

In this regard, such a broad definition risks masking what for a child may be the worst aspect of the abuse – that is, it is perpetrated by a close family member and can potentially cause serious long-term harm to the child, including resort to promiscuity and confusion about sexual identity.

Sibling to sibling incest

Although incestuous relationships most commonly refer to sexual abuse of a girl by her father (mother/son incest is either infrequent or under-reported), older siblings may also sexually abuse their younger brothers and sisters. An age gap of at least five years between the siblings is considered to be the usual threshold. Again, the significant factors in the abuse are power and control. Sibling sexual abuse may be considered an expression of an older child's unmet needs, due perhaps to family dysfunction. Proximity to a younger child, and normal expressions of affection, can in themselves lead to an older sibling engaging in inappropriate and ultimately sexually abusive activities.

International Definitions

WHO

Violence Against Women: The Girl Child. WHO. Geneva. 1997.

Incest, sexual abuse occurring within the family, although most often perpetrated by a father, stepfather, grandfather, uncle, brother or other male in a position of family trust, may also come from a female relative. As with sexual abuse, incest is accomplished by physical force or by coercion. Incest takes on the added psychological dimension of betrayal by a family member who is supposed to care for and protect the child.

Definition

Alternative Definitions

James M. Henslin

Sociology: A Down to Earth Approach. Allyn & Bacon.

Incest is sexual activity between close family members. It is a taboo in

Definition

most societies and a criminal offence and an impediment to marriage in most countries, as well as being opposed by most modern religions. But the exact definition of what is a 'close family member' varies widely: some jurisdictions consider only those related by birth, others also those related by adoption or marriage; some prohibit relations only with nuclear family members and ancestors or descendants, while others prohibit relations with aunts and uncles, nephews and nieces, and cousins as well.

The term is also sometimes used metaphorically and legally, to describe relationships between an authority figure and a pupil, such as teacher-student or troop leader and Scout.

Barbara E. Bogorad

Sexual Abuse: Surviving the Pain. The American Academy of Experts in Traumatic Stress. 1998.

Definition Incest was traditionally defined as sex between close relatives. But incest is, above all, abuse; abuse by the very person(s) entrusted with the child's care.

M. Heiman

'Untangling incestuous bonds: The treatment of sibling incest'. In M. Kahn and K. Lewis (Eds.). *Siblings in Therapy*. Norton & Co. New York. 1988.

Definition Incest is any use of a minor child to meet the sexual or sexual/emotional needs of one or more persons whose authority is derived through ongoing emotional bonding with that child.

Incest Survivors Anonymous

'ISA Definition of Incest'. ISA. <http://www.lafn.org/medical/isa/isadef.html>.

From the viewpoint of the survivor, encompassing the emotional, mental, spiritual and/or physical damage done to the child, incest is a betrayal of trust in overt and covert sexual contact or act which possibly includes: touching or non-touching, verbal seduction or abuse, anal or vaginal intercourse, oral sex, sodomy, manual stimulation, direct threats, implied threats, or other forms of abuse between people who are related genetically, by marriage, by living arrangements, or in whom a child perceives a trusting relationship, i.e. mother, father, grandfather, grandmother, aunts, uncles, cousins, stepparents, step-siblings, half-siblings, live-in or sleep-over lovers, brothers, sisters, foster parents, adoptive parents, neighbours, family friends, babysitters, anyone either known or a stranger with a power advantage of any kind over the child ...¹⁶

Family Services of Vancouver

Sibling Sexual Abuse - A Parents Guide. FSGV. Canada. 1994.

<http://fsgv.bc.ca/>. Accessed: May 2004.

In sibling sexual abuse, the victim and the abuser are siblings. This may include such situations as foster or step-siblings. Also, as in other forms of sexual abuse, sibling sexual abuse doesn't necessarily involve sexual touching. The abuser may force two or more other children to engage in sexual activity with one another. The abuser may force the siblings to watch sexual activity or pornographic videotapes. The abuser may also abuse them by repeatedly watching them dress, shower or use the toilet when they don't want.

Endnote:

¹⁶ This very wide-ranging definition of incest for most purposes relates to sexual abuse. This is because the organisation places considerable emphasis on the abuse of power and trust.

13. ADOPTION

As there is no right to a child, there is no right to adopt. The purpose of adoption is to give a family to a child and not a child to a family. Adoption always has to be justified by the child's best interest, and not by the interests of adults. Adoption must not result in improper financial gain.

Adoptions within countries are subsidiary to maintaining or reintegrating a child into their family of origin (the parents of origin have priority responsibility for the education of their child). Inter-country adoptions are subsidiary to maintaining or reintegrating a child into their family of origin and also to adoptions within a child's own country. This is known as the principle of subsidiarity.

Adoption constitutes a permanent protective measure for children who are deprived of family. It therefore has to be the end result of a professionally led and multidisciplinary process to ensure a child's best interests are upheld. This process must be managed by competent authorities and, if such were to apply, private adoption agencies that are fully accredited to carry out this work.

The process of adopting a child includes legal and medical psychosocial evaluations to assess a child's family status and the suitability of prospective adoptive parents. This takes place before a child is 'matched' with a prospective adoptive family. That is, a professional determination is made of the most adequate prospective adoptive family for an adoptable child, and then first contact between the child and family is made. One key legal requirement in assessing a child's adoptability is to ensure that if the child's parents of origin are alive, they have given free and informed consent to the child's adoption or

a competent authority has verified the existence of a legal ground to dispense with their consent. In order to follow the due process of this prerequisite, the psychosocial work and assessment with the parents of origin, or the search for them if they are unknown, must take place before adoptability of the child is verified.

Depending on a country's legislation, there are potentially two types of adoption: full adoption and simple adoption. In principle, full adoption cuts all the legal links between a child and their family of origin, and integrates the child fully into the extended adoptive family, on the same basis as a biological child. Simple adoption maintains the legal links between a child and their family of origin, and generally creates a legal child-parent relationship between the child and the adoptive parents only. Neither form of adoption implies that a child should be denied access to his or her origins.

Adoption within a child's extended family (such as adoption by a stepparent, a grandparent or another family member) requires the same level of professional evaluation. It is not always in a child's best interest that his or her relationships with the whole family be disturbed in order to give some official parental responsibility to the family member who actually cares for the child.

In addition, while customary 'adoptions' have moral implications for the foster family towards the child whom it takes in, these are not adoptions in the international and legal sense of the term.

It should also be noted that legal adoption does not exist in most countries where national laws are based on Islamic law.

Trafficking

Many adoptions are not linked to the trafficking of children. But some adoptions are carried out through trafficking (mostly inter-country). In most cases of a child being trafficked for the purpose of adoption, the aim is indeed to secure a real child-parent relationship. But the means used are fraudulent or do not respect all the safeguards provided for in legal adoption processes. Among other issues, trafficking is not always governed by the principle of subsidiarity and by a correct assessment of a child's adoptability (including ensuring the consent of the parents of origin is given and confirmed, in accordance with the child's rights). In more severe forms of trafficking, the term 'adoption' may mask a child's transfer from one person to another for the purpose of exploitation.

International Definitions

Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption. Art. 2 (c). 1993.

Definition The Convention covers only adoptions which create a permanent parent-child relationship.

NGO Definitions

International Resource Centre for the Protection of Children in Adoption, International Social Service (ISS/IRC). Accessed at <http://www.iss-ssi.org>

Definition The adoption of children is both

- a legal filiation (child-parent relationship) based on an emotional, educational and social bond (and not on a blood link), and

- a permanent protective measure for children whose parents do not want or are not able to be responsible for them.

14. FEMALE GENITAL MUTILATION

Between 85 million and 114 million women and girls worldwide are the victims of female genital mutilation (FGM). Each day, another 6000 girls become victims of the practice. That's 2 million a year.¹⁷ Often categorised as a harmful traditional practice, FGM continues to have a devastating effect on many girls.

Short-term effects of FGM include haemorrhaging, infection and acute pain. Complications resulting from deep cuts and infected instruments can cause death. Longer-term effects include infertility as a result of infection, obstructed labour and psychological complications.

Understanding the precise definition of FGM is important in outlawing the practice. The World Health Organization has developed a comprehensive medical definition while the Office of the High Commissioner for Human Rights emphasises the human rights violations associated with the practice, including contravention of the Convention on the Rights of the Child.

FGM is a form of violence against girls and women and should be treated as such by legislators. As indicated in the definitions supplied by WHO and the Inter-Parliamentary Union, various forms of FGM are used throughout the world. They vary in medical procedures, but all are detrimental to the health and well-being of the victims.

FGM is a harmful traditional practice and a violation of the human rights of girls and women. FGM should be separated out from other non-harmful traditional practices that are reflective of cultural rites of passage but which do not result in physical or psychological harm.

International Definitions

Sub-Commission on the Promotion and Protection of Human Rights

‘Traditional practices affecting the health of women and the girl child’. Resolution 2001/13. UN High Commissioner for Human Rights. 15 August 2001.

Affirming once again that female genital mutilation is a cultural practice which profoundly affects the physical and mental health of the girl child and of the women who are its victims.

Definition

Inter-Parliamentary Union

‘What is Female Genital Mutilation?’ IPU.

<http://www.ipu.org>. Accessed: 2003.

[Female] Circumcision or “sunna”: This involves the removal of the prepuce and the tip of the clitoris. This is the only operation which, medically, can be likened to male circumcision.

Definition

Excision or clitoridectomy: This involves the removal of the clitoris, and often also of the labia minora. It is the most common operation and is practised throughout Africa, Asia, the Middle East and the Arabian Peninsula.

Infibulation or Pharaonic circumcision: This is the most severe operation, involving excision plus the removal of the labia majora and the sealing of the two sides, through stitching or natural fusion of scar tissue. What is left is a very smooth surface, and a small opening to permit urination and the passing of menstrual blood. This artificial opening is sometimes no larger than the head of a match.

Introcision: This form of mutilation is practised specifically by the Pitta-Patta Aborigines from Australia: When a girl reaches puberty, the whole tribe - both sexes - assembles. The operator, an elderly man, enlarges the vaginal orifice by tearing it downward with three fingers bound with opossum string. In other districts, the perineum is split with a stone knife. This is usually followed by compulsory sexual intercourse with a number of young men. Introcision is also practised in Peru, in particular among the Conibos, a division of the Pano Indians in the North-East: as soon as a girl reaches maturity, she is intoxicated and subjected to mutilation in front of her community. The operation is performed by an elderly woman, using a bamboo knife. She cuts around the hymen from the vaginal entrance and severs the hymen from the labia, at the same time exposing the clitoris. Medicinal herbs are applied followed by the insertion into the vagina of a slightly moistened penis-shaped object made of clay.

Unclassified types of FGM: includes pricking, piercing or incision of clitoris and/or labia; stretching of clitoris and/or labia; cauterisation by burning of clitoris and surrounding tissues; scraping (angurya cuts) of the vaginal orifice or cutting (gishiri cuts) of the vagina; introduction of corrosive substances into the vagina to cause bleeding or herbs into the vagina with the aim of tightening or narrowing the vagina; any other procedures which fall under the definition of FGM given above.

UNFPA

'Taking a Stand Against Practices That Harm Women'. UNFPA.
<http://www.unfpa.org>. Accessed: May 2004.

Definition Female genital cutting (FGC) generally refers to the removal of part or all of a girl's external genitalia, and, in a more radical version (infibulation), the stitching up of the vaginal opening. An excruciating

and sometimes deadly procedure, FGC is aimed at preserving female chastity and marriage prospects. It achieves this at the expense of a woman's sexual health and bodily integrity.

**Office of the High Commission on Human Rights
'Harmful Traditional Practices Affecting the Health of Women and Children'. Fact Sheet No. 23. 2003.**

Female genital mutilation (FGM), or female circumcision as it is sometimes erroneously referred to, involves surgical removal of parts or all of the most sensitive female genital organs. It is an age-old practice which is perpetuated in many communities around the world simply because it is customary. FGM forms an important part of the rites of passage ceremony for some communities, marking the coming of age of the female child. It is believed that, by mutilating the female's genital organs, her sexuality will be controlled; but above all it is to ensure a woman's virginity before marriage and chastity thereafter. In fact, FGM imposes on women and the girl child a catalogue of health complications and untold psychological problems. The practice of FGM violates, among other international human rights laws, the right of the child to the "enjoyment of the highest attainable standard of health", as laid down in Article 24 (paras. 1 and 3) of the Convention on the Rights of the Child.

Definition

UNICEF

'Child Protection: Female genital mutilation'. UNICEF. <http://www.unicef.org>. Accessed: May 2004.

Female genital mutilation/cutting (FGM/C), or female genital cutting, refers to a number of practices which involve cutting away part or all of a girl's external genitalia. Mutilated/cut infants, girls and women face irreversible lifelong health risks, among other consequences.

Definition

WHO

'Female genital mutilation'. WHO Gender and Women's Health Department. Fact Sheet No 241. June 2000. WHO. <http://www.who.int>. Accessed: May 2004.

Definition Female genital mutilation (FGM), often referred to as 'female circumcision', comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs whether for cultural, religious or other non-therapeutic reasons. There are different types of female genital mutilation known to be practised today. They include:

- Type I - excision of the prepuce, with or without excision of part or all of the clitoris;
- Type II - excision of the clitoris with partial or total excision of the labia minora;
- Type III - excision of part or all of the external genitalia and stitching/narrowing of the vaginal opening (infibulation);
- Type IV - pricking, piercing or incising of the clitoris and/or labia; stretching of the clitoris and/or labia; cauterisation by burning of the clitoris and surrounding tissue;
- scraping of tissue surrounding the vaginal orifice (angurya cuts) or cutting of the vagina (gishiri cuts);
- introduction of corrosive substances or herbs into the vagina to cause bleeding or for the purpose of tightening or narrowing it; and any other procedure that falls under the definition given above.

The most common type of female genital mutilation is excision of the clitoris and the labia minora, accounting for up to 80% of all cases; the most extreme form is infibulation, which constitutes about 15% of all procedures.

NGO Definitions

World Vision

Every Girl Counts: Development, Justice and Gender. World Vision. Canada. 2001.

Harmful traditional practices are institutionalised practices that cause physical harm, with multiple psychological and sociological impacts. Examples are female genital mutilation ... Definition

Endnote:

¹⁷ World Vision. Every Girl Counts: Development, Justice and Gender. World Vision. Canada. 2001.

Section Two: Citations Within International Instruments

The following section brings together the international instruments in which the various terms explored in this publication are used. These instruments show that a single term can be incorporated into many different international instruments, and a definition is not always provided. Wherever a term appears in an international instrument, it has been reproduced here. The citations below clearly reflect that language is being used on the assumption that people understand particular words and terms. Such assumptions are not valid. As a reading of these instruments makes clear, the absence of clear and consistent definitions creates ambiguities, and it is misleading to assume that understanding of certain terms is shared across the board. Using terms in international instruments without ensuring their meaning is made fully clear and understood by all can lead to poor policy and programme interventions. Achieving such understanding is not simply about semantics but rather is an essential part of a substantive approach to child protection.

Child Prostitution

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Entry into force 19 November 2000.

Article 3

For the purposes of this Convention, the term *the worst forms of child labour* comprises:

b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

Convention on the Rights of the Child

Entry into force 2 September 1990.

Article 34

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

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

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

Entry into force 25 July 1951.

First Paragraph

Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community, Whereas, with respect to the suppression of the traffic in women and children, the following international instruments are in force:

International Covenant on Economic, Social and Cultural Rights

Entry into force 3 January 1976.

Article 10

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below

which the paid employment of child labour should be prohibited and punishable by law.

Child Sex Tourism

International Covenant on Economic, Social and Cultural Rights

Entry into force 3 January 1976.

Article 10

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Child Marriage

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage 1962

Entry into force 9 December 1964.

Article 2

States Parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.

Child Pornography

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

Entry into force 19 November 2000.

Article 3

For the purposes of this Convention, the term *the worst forms of child labour* comprises:

b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

Convention on the Rights of the Child

Entry into force 2 September 1990.

Article 34

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

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

Trafficking in Children

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

Entry into force 19 November 2000.

Article 3

For the purposes of this Convention, the term *the worst forms of child labour* comprises:

a) all forms of slavery or practices similar to slavery, such as the sale

and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

Convention on the Rights of the Child

Entry into force 2 September 1990.

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.

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

Entry into force 25 July 1951.

First Paragraph

Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community, Whereas, with respect to the suppression of the traffic in women and children, the following international instruments are in force:

Child Sexual Abuse

Convention on the Rights of the Child

Entry into force 2 September 1990.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent

treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Commercial Sexual Exploitation

Convention on the Rights of the Child

Entry into force 2 September 1990.

Article 34

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

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

Who is a Child?

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organised Crime. 2000.

Article 3 (d)

Child shall mean any person under eighteen years of age.

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

Entry into force 19 November 2000.

Article 2 (ILO No. 182)

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

Convention on the Rights of the Child

Entry into force 2 September 1990.

Article 1

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

Worst Forms of Child Labour

Convention on the Rights of the Child

Entry into force 2 September 1990.

Article 32

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

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- a) Provide for a minimum age or minimum ages for admission to employment;

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

Forced Marriage

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages 1962

Entry into force 9 December 1964.

Article 1

1. No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law.

Incest

Convention on the Rights of the Child

Entry into force 2 September 1990.

Article 36

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

Adoption

Convention on the Rights of the Child

Entry into force 2 September 1990.

Article 20

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

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

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

Article 21

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

Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally; Section C: Adoption
Adopted by General Assembly resolution 41/85 of 3 December 1986.

Article 13

The primary aim of adoption is to provide the child who cannot be cared for by his or her own parents with a permanent family.

Article 18

Governments should establish policy, legislation and effective supervision for the protection of children involved in intercountry adoption. Intercountry adoption should, wherever possible, only be undertaken when such measures have been established in the States concerned.

Article 19

Policies should be established and laws enacted, where necessary, for the prohibition of abduction and of any other act for illicit placement of children.

Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption, The Hague

29 May 1993.

Article 2

1) The Convention shall apply where a child habitually resident in one Contracting State ('the State of origin') has been, is being, or is to be moved to another Contracting State ('the receiving State') either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.

(2) The Convention covers only adoptions which create a permanent parent-child relationship.

Optional Protocol to the Convention on the Rights of the Child, on the sale of children, child prostitution and child pornography

Entry into force 18 January 2002.

Article 3

ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

Female Genital Mutilation

Convention on the Rights of the Child

Entry into force 2 September 1990.

Article 24

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

Declaration on the Elimination of Violence Against Women

20 December 1993.

Article 2

Violence against women shall be understood to encompass, but not be limited to, the following:

a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

Traditional or customary practices affecting the health of women and girls; General Assembly Resolution 54/133

Resolution 3(e)

To establish or strengthen support services to respond to the needs of victims by, inter alia, developing comprehensive and accessible sexual and reproductive health services and providing training to health-care providers at all levels on the harmful health consequences of such practices

Traditional or customary practices affecting the health of women and girls; General Assembly Resolution 53/117

Resolution 51

Traditional and customary practices affecting the health of women and girls - in particular, female genital mutilation - have long been a target of intergovernmental, governmental and civil society concern, and a variety of measures has been introduced to address them and their harmful effects. However, the elimination of such practices requires greater efforts. Fundamental changes in societal attitudes are necessary. This requires national, regional and international efforts devised within the context of health, human rights and women's empowerment.

Useful Web Links

Anti-Slavery International

<http://www.antislavery.org>

Children's Campaign

<http://www.childrencampaign.org>

Child Wise

<http://www.ecpat.org>

ECPAT International

<http://www.ecpat.net>

Focal Point Programme of the NGO Group for the CRC

<http://www.crin.org/NGOGroupforCRC/>

Global March against Child Labour

<http://globalmarch.org/index.html>

Human Rights Watch

<http://www.hrw.org>

International Labour Organization

The Trafficking Trap

<http://www.ilo.int>

International Organization for Migration

<http://www.iom.int/>

Inter-Parliamentary Union

<http://www.ipu.org/>

Save the Children Sweden

<http://www.rb.se/engindex.htm>

UNICEF

Child Protection: Focus Areas

<http://www.unicef.org/programme/cprotection/focus/intro.html>

UNESCO

Sexual Abuse of Children, Child Pornography and Paedophilia on the Internet

http://www.unesco.org/webworld/child_screen/conf_index.html

UNFPA

Taking a Stand Against Practices That Harm Women

<http://www.unfpa.org/gender/traditions.htm>

UN High Commission for Human Rights

<http://193.194.138.190/html/intlnst.htm>

Women's World Summit Foundation

<http://www.woman.ch>

World Congress against the Commercial Sexual Exploitation of Children

<http://www.csecworldcongress.org>

World Health Organization

Department of Gender, Women and Health

<http://www.who.int/gender/en>

World Vision International

<http://www.wvi.org>

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Entry into force 26 June 1987.

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Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. Entry into force 25 July 1951.

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages 1962. Entry into force 9 December 1964.

Convention on the Elimination of All Forms of Discrimination against Women 1979. Entry into force 3 September 1981.

Convention on the Rights of the Child, UN. Entry into force 2 September 1990. Articles 1, 19, 20, 21, 24, 32(a), 32(b), 32(c), 34(a), 34(b), 34(c), 35, 37(a), 37(b) and 39.

Declaration of the World Congress against Commercial Sexual Exploitation of Children. Stockholm. 1996.

Declaration on the Elimination of Violence Against Women. 20 December 1993.

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