

Basic Information

on the commercial sexual exploitation
of children and adolescents



International
Labour
Office

Central America, Panama and the Dominican Republic



Each piece counts!

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ILO/IPEC

Basic information on the commercial sexual exploitation of children and adolescents

International Labour Office

International Programme for the Elimination of Child Labour

Project entitled **"Contribution to the prevention and elimination of the commercial sexual exploitation of children and adolescents in Central America, Panama and the Dominican Republic"**.

Material rewritten based on the ILO/IPEC publication of May 2004 entitled **"Basic Information on Problems related to the Commercial Sexual Exploitation of Children and Adolescents. Central America, Panama and the Dominican Republic"**.

Visit our website: www.oit.or.cr/ipec/esc

First edition August 2006

Second edition August 2008

Design and production: ACD Asesoría Creativa, S.A. (Spanish version)

Design and production: Monkey Studio (English version)

Printed in Costa Rica, 2008:

Diseño Editorial S.A.

Translation: *Natasha McIver*

FFunding for this ILO publication was provided by the United States Department of Labour. (RLA/O5/P52/USA). This publication does not necessarily reflect the views or policies of the United States Department of Labour, nor does mention of trade names, commercial products, or organizations imply endorsement by the United States Government.

Presentation

The purpose of this document is to set down a series of basic concepts and definitions of the commercial sexual exploitation of children and adolescents in order to make general technical information on the issue available to those interested in supporting the prevention and elimination of this social ill. This information includes the types and methods of commercial sexual exploitation that exist, those responsible for it, the factors that are conducive to this form of exploitation, and what should be done to put a stop to this gross violation of the human rights of underage persons who fall victim to this crime.

It also offers a summary of the progress made at the regional level in the fight against the commercial sexual exploitation of children and adolescents, both in terms of the existing legal frameworks in Central America, Panama and the Dominican Republic, and the institutional framework and national policies developed for this purpose.

Finally, the document summarizes the efforts that the ILO/IPEC have been making to contribute

to the elimination of this problem, within the framework of ILO Convention 182 on the elimination of the worst forms of child labour - ratified by all the countries in the region - which points out the need for immediate and effective steps to prohibit and eliminate the commercial sexual exploitation of underage persons.

The ILO views commercial sexual exploitation as similar to slavery and forced labour; it recognizes the right of children and adolescents to be protected against this type of sexual violence and insists that those involved in using and recruiting persons under 18 for commercial sexual activities be found, prosecuted and penalized.

This publication has been prepared within the framework of the ILO/IPEC's sub-regional project entitled "Contribution to the prevention and elimination of the commercial sexual exploitation of children and adolescents in Central America, Panama and the Dominican Republic", which has the financial backing of the United States Department of Labour.

What is the Commercial Sexual Exploitation of Children and Adolescents?

"I don't know how to do much -only sewing- but the pay's not good, and I can't start working at a maquila yet. When I'm 18 I'll see if I'm lucky enough to get into one and get work there. Some of my friends are doing well there because they can save a little money and start buying their own stuff. In the future I'd like to meet a good man and bring my little girl over here; and help my Mum and my Grandma as much as I can and get out of this. I'm scared of what could happen to me here, I fear for my life. As for me, I'd like to carry on studying and be someone some day."

Elena, aged 16
Victim of commercial sexual exploitation in Honduras.
Died in 2002.

Commercial sexual exploitation (CSEC from here on) is not just another problem affecting thousands of children and adolescents throughout the world. It is currently considered one of the most serious violations of their human rights.

It occurs when one or more people offer a financial or other type of payment (for example, payment in kind) or even make threats in order to lure or use persons under 18 years of age in commercial sexual activities.

CSEC is an extremely serious violation of the human rights of children and adolescents. It infringes upon their integrity, dignity and development by severely affecting many rights such as that of protection against all forms of violence; the right to health and education; the right to live within a family unit; the right to justice; and it sometimes even puts their right to life at risk. This is why CSEC is considered a criminal offence and a form of economic exploitation resembling that of forced labour and slavery.

The children and adolescents who are victims of this kind of exploitation undergo extreme physical suffering such as unwanted pregnancies, sexually transmitted diseases (STDs) and injuries caused by physical violence; psychological damage such as loss of self-esteem, distrust, guilt and sadness; as well as social marginalization, humiliation and exclusion. This situation also leads to problems with verbal and written communication.

Types and methods of commercial sexual exploitation

CSEC is a form of sexual violence that manifests itself through the subjection of persons under 18 years of age to diverse activities such as:

- Paid sexual relations and activities
- Production of pornographic material (for example, taking photographs with a sexual or erotic content)
- Sex shows, either public or private

These activities are carried out in a number of ways, depending on the origin of both the exploiter and the underage person being exploited. Examples of these include the following:

- **Exploitation by locals:** involves using children and adolescents in a specific area for any of these forms of violence by exploiters who live or reside in the same country or area.
- **Sex tourism:** occurs when the exploiters are foreigners or tourists taking advantage of their stay in a region or country to carry out commercial sexual activities with persons under 18 years of age, often motivated by impunity which, to a greater or lesser extent, characterizes the problem.

- **Trafficking for the purpose of sexual exploitation:** occurs when a child or adolescent is taken from one place to another—either within the same country or abroad—to be subjected to sexual exploitation in any of its forms.
- **Child pornography circulated via the Internet and other means:** this does not involve direct contact between the person who “consumes” the pornography and the victims; it does, however, involve a number of both national and foreign exploiters acting as intermediaries.¹

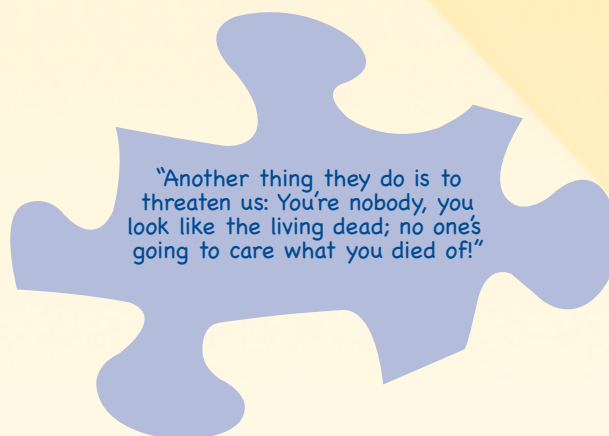
The CSEC is a “business” in which organized crime networks employ a modus operandi similar to that of international drug trafficking networks. These networks benefit from all forms of child and adolescent exploitation in all its manifestations.

It is impossible to say exactly how many children and adolescents are victims of CSEC since this activity—which constitutes a criminal offence—is often carried out in secret (behind closed doors, in brothels or hotels, etc.). This, coupled with the ethical problems involved in researching the subject without stigmatizing the victims, makes it almost impossible to carry out a representative study on a statistical level. The existence of the problem, however, is plain to see on the streets. Furthermore, studies carried out by the ILO/IPEC and other organizations show how easily large numbers of victims have been contacted within a very short period of time, and these victims confirm that there are many more and corroborate the magnitude of the problem.

New technologies have resulted in an increase in the production and circulation of pornography given the low costs, availability of software, and the speed of distribution channels—such as the Internet—which respond to a network rationale

over which there is little control, and that go beyond the scope of competence of any national legislation. Again, it is impossible to calculate the number of users, although the extent and significance of the growth of this illegal activity is apparent when navigating the Internet.

Those responsible for commercial sexual exploitation



Kathy
Victim of commercial
sexual exploitation
in Honduras

The customary impunity of the “client”-exploiters, as well as that of the considerable number of people who benefit from this lucrative “business”, has been largely absent from the public and political debate on this topic, despite the dire consequences suffered by the child and adolescent victims of this violation of their human rights.

Those directly responsible for this criminal offence are the people doing the exploiting, that is, the “client”-exploiters. They are mostly local men although foreign tourists are also involved and, on occasion, so too are women who pay or directly use children and adolescents for commercial sexual activities to satisfy their own sexual desires.

¹ SORENSEN (Bente), “El problema de la explotación sexual comercial de las personas menores de edad” in Caminos hacia la prevención y la erradicación de la explotación sexual comercial de niños, niñas y adolescentes en Centroamérica, Panamá y República Dominicana, OIT/IPEC, San José, August, 2001.

According to research carried out by the ILO/IPEC on how men perceive CSEC, the majority of those consulted showed a high level of tolerance towards commercial sex with adolescents under 18 years of age. It is, in fact, in many cases thought to be highly valued socially since it increases men's prestige and status in the eyes of others, and is even believed to restore men's vitality and rejuvenate them.²

Since the construction of a traditional patriarchal sexuality, women - and children and adolescents in particular - have been viewed as "objects that can be appropriated or purchased"; therefore, it is not considered "bad" to pay for having sexual relations with persons under 18. The prevailing view is that this situation is "normal for men" and even desirable. In this sense, CSEC is not viewed as a crime nor are those exploited considered victims.

The procurers and those who act as intermediaries in this activity are also directly responsible for CSEC. These include certain taxi drivers, hotel owners or staff, guesthouses, massage parlours and photography studios. In many cases, these groups or individuals disguise the CSEC by masking as legitimate businesses. Both the procurers and intermediaries take part in the exploitation in order to obtain financial gains.

Those directly responsible

- "Client"-exploiters
- Procurers
- Intermediaries

Among those indirectly responsible for the exploitation are all those who turn a blind eye, who refuse to react to this problem, be it by tolerating the existence of the exploitation, promoting the persistence of a sexist culture, and one in which there is no respect for human rights, or by not fulfilling their duty to act in accordance with the law.

Most people are not aware of the problem or do not realize that CSEC can only exist if there are adults willing to subject girls and boys to activities involving commercial sex. An example of this situation is the way in which some of the media portray this problem by only illustrating information with images of the victims and not of the exploiters. The problem is often not even associated with the adults doing the abusing, but, rather, with the exploited children and adolescents who, moreover, are treated as the guilty party in CSEC.

This situation is also reflected in the terminology that has, in the past, been used to refer to the problem. In spite of the fact that it is the term most commonly used to refer to this complex social issue, "child prostitution" tends to distort the reality since it makes those responsible for CSEC invisible as well as re-victimizing the boys, girls and adolescents.

In lieu of this concept, the term "commercial sexual exploitation" is recommended despite the fact that it is not in keeping with the term specified by international law. According to Cruz and Monge "the concept of "prostitution" was originally used to refer to the illegal activity morally reprimanded by patriarchal society that operates by means of double standards, and that has the following characteristics:

- The word "prostitution" refers to the person who exercises the prostitution and not the person who pays for the sexual activities to take place.

2 OIT/IPEC. "Masculinidad y Explotación Sexual Comercial. Un estudio cualitativo con hombres de la población general". Results of the regional study coordinated by Alvaro Campos and José Manuel Salas for the ILO/IPEC Project entitled "Contribution to the prevention and elimination of the commercial sexual exploitation of children and adolescents in Central America, Panama and the Dominican Republic", San José, 2004.

- In patriarchal society prostitution emerged as an activity based on double standards, the treatment of women as objects, the expropriation of women's bodies and their sexuality, and on a divided view of women.
- In most countries throughout the region adult prostitution is not a crime in itself. It is an activity that is tolerated and, in some cases, regulated, though not legalized. Forced prostitution is penalized since it violates personal freedom, and involves procurement and indecent behaviour.
- To refer to a concept that has historically been associated with a tolerated, permissible activity, which goes unpunished, could have inconvenient implications for ideologically combating CSEC, such as the risk of reproducing the same myths and stereotypes related to adult prostitution (for example, that the underage person's condition as such could be ignored or belittled, resulting in them being treated the same as an adult; that CSEC could be described as a "voluntary activity" on the part of the child or adolescent; that the underage person "is the one that encourages it" or that those who sexually exploit them could become "invisible" to the extent that, as in adult prostitution, the responsibility falls on the person prostituting him or herself and not on the person who pays for it (the prostituer); and, finally, the most serious implication is that the sexual violence involved in the prostitution of boys, girls and adolescents could go unnoticed or be denied altogether."³

This is why it is more appropriate to use the term commercial sexual exploitation since it portrays the situation more accurately. Moreover, the use of this term removes any doubt as to the so-called "consent" children and adolescents occasionally grant the exploiters. It is worth

bearing in mind that the right to protection against any form of exploitation and abuse cannot be renounced by anyone under 18 years of age. Finally, it is worth mentioning that the term CSEC is more general since it covers other activities besides paid sexual relations.

Another term that needs to be modified is "client" - precisely to avoid creating a false image of a person that is legally paying for a service. Since it is a sexual abuse and a criminal offence, CSEC cannot, therefore, be paid for; thus, the term "exploiter", or "clientexploiter" is recommended.

Factors that sustain commercial sexual exploitation

"Sometimes I feel really sad and depressed when I think about life. I feel like disappearing -that's when I smoke a joint or get hold of some drugs, it helps me to keep my spirits up. I don't want to do this forever, I'm in it for my daughter, so I say to myself -well, stick with it for a little longer, some day you'll break free- and that's what I'm going to do, you'll see..."

Elena
Victim of commercial
sexual exploitation

Many boys, girls and adolescents -regardless of their sex, age, economic background or race- are trapped in CSEC, which exists precisely because there is a demand, on the part of adult men and women, for sexual activities with persons under 18, either for satisfying their own personal pleasure or for obtaining financial gain from these acts.

³ OIT/IPEC "Explotación sexual comercial. Contenidos penales mínimos según las normas internacionales que deben tener los códigos o leyes penales en material de penalización de la explotación sexual comercial de personas menores de edad. Documento de trabajo con recomendaciones para los países de Centroamérica, Panamá y República Dominicana". Document elaborated by Ivannia Monge and Fernando Cruz, legal experts and consultants of the ILO/IPEC Project entitled "Contribution to the prevention and elimination of the commercial sexual exploitation of children and adolescents in Central America, Panama and the Dominican Republic", San José, 2004.

Some of the factors that reproduce and socially legitimize CSEC include the following:

- Sexist culture
- The existence of organized networks that benefit and make a substantial profit from this “business”
- Social tolerance towards this problem
- The impunity of the exploiters
- The rise in sex tourism
- The negative consequences of the inappropriate use of advanced technology
- Consumerism
- Economic exploitation from an early age and child labour
- Prolonged periods on the streets
- Discrimination and social exclusion
- Adverse family and personal conditions such as drug addiction, alcoholism, violence and abuse within the family
- Negligence on behalf of the communities and public institutions for putting a stop to this situation.

Both the causes and the risk factors should be dealt with by means of different strategies in order to eliminate CSEC effectively.

These elements, which generate the existence of the “demand”, are added to other risk factors that make children and adolescents vulnerable in the eyes of the exploiters. These include:

- Poverty
- Lack of education opportunities and expulsion from school

Myths and truths regarding commercial sexual exploitation.

CSEC is a complex issue with multiple causes. It is legitimized largely by the myths and stereotypes that are reproduced and originate in a sexist culture with little respect for human rights. Some of the myths that exist in relation to CSEC, and that must be eradicated in order to eliminate it, are shown below:⁴

⁴ Taken from “Memoria de la Reunión de Seguimiento del II Congreso Mundial contra la Explotación Sexual Comercial de Niños, Niñas y Adolescentes”. San José, Costa Rica, May 2004, and from “Manual básico para la intervención policial con niños, niñas y adolescentes víctimas o en riesgo de explotación sexual comercial”, Document elaborated by ECPAT-International, San José, 2005.

Myth	Truth
<i>"They're prostitutes and that's their job."</i>	CSEC, in any of its many forms and manifestations, is a violation of the human rights of children and adolescents; it is not a job. The underage persons are the victims of adults who fail to respect their rights and use them for their benefit.
<i>"It's an easy job."</i>	The children and adolescents do not choose to be sexually exploited; it is not a job, much less an easy one. Underage persons do not have the ability to fully understand the consequences and implications of their actions, and this is why they need protection.
<i>"They do it because they enjoy it."</i>	The underage persons involved in CSEC have been lured into the sex trade by exploiters and/or networks run by procurers. They are not there because they want to be or because they enjoy it. They are victims of a modern form of slavery. They live under threat and suffer all kinds of abuse. Children and adolescents cannot consent to being exploited, nor can they renounce their rights.
<i>"They're lazy. They don't want to study."</i>	Both institutional as well as family protection systems often do not provide persons under 18 with the conditions they require to consider themselves important or needed. Instead, they are blamed and are not seen as victims of adults who use them for their own gain. In the majority of cases they have not had the opportunity to study.
<i>"They earn a lot of money."</i>	It is the intermediaries involved in the exploitation who benefit from CSEC, that is, those who facilitate this business and make a profit from it. It is considered one of the most lucrative illegal activities in the world. Moreover, the underage persons normally get into debt bondage with the exploiters for their maintenance, drug use, etc.
<i>"They take advantage of men, seduce them and get money out of them."</i>	The sexual exploiters are those responsible for this criminal activity and they are the ones who take advantage of the vulnerability of the victims and of the inequality of power involved in relationships between adults and underage persons. It is the responsibility of adults to protect children and adolescents.
<i>"Sex with children is safer."</i>	Persons under 18 years of age are more vulnerable to becoming infected with STDs (Sexually Transmitted Diseases) and HIV/AIDS through the exploitation they are subjected to, and, also, because their level of physical development makes them more prone to contracting these kinds of infections.
<i>"I'm doing them a favour by paying them, that way they can support their family."</i>	Using an underage person for CSEC purposes is a criminal offence - it is never a favour.
<i>"It's a problem that foreign tourists have created."</i>	CSEC is an issue that affects all countries and regions throughout the world. It responds primarily to the demands of local sex exploiters. The problem does not lie only in tourism since it is based on social and cultural factors that tolerate this social ill.
<i>"There's nothing we can do. There's no solution. Nothing and nobody will get them out of it."</i>	These situations are very complex but it is possible to protect these victims if the State fulfils its obligation to set up comprehensive programmes that respond to their diverse needs. Financial support should be provided for the victims and their families, as well as legal and psychological aid, education and - for those old enough to work - training and job opportunities that will allow them to better themselves and overcome the situation they find themselves in.
<i>"The oldies go for youngsters", "No man can control his sexual urges", "The more sexual encounters a man has, the manlier he is."</i>	These popular sayings reinforce the belief that men have the right to control other people; that they have power and authority over women; and that sexuality is an individual act that men carry out when and with whom they please. These beliefs wrongly legitimize personal and social practices that view the superiority of men over women as normal, and promote CSEC.

How can Commercial Sexual Exploitation be eliminated?

The prevention and elimination of CSEC is a long-term and challenging process since it requires joint and committed action on the part of almost all the social sectors. There are certain basic principles that are effective for combating sexual exploitation and which –together with the international legal instruments regulating human rights– allow the victims to be recovered in the short term and ensure action is taken against the exploiters, and that strategies to prevent the problem continue to be built.

Basic principles in the fight against commercial sexual exploitation

1. *Identifying the victims of CSEC:*

It is important to point out that the underage persons are not the ones who are guilty of the exploitation; on the contrary, they are the victims. This is why they should by no means be blamed or made responsible for acts in which they have been encouraged or forced to take part by unscrupulous adults taking advantage of an unequal power relationship. To all intents and purposes, any action taken and understanding should be in keeping with the principle that it is the children and adolescents who are the victims of the exploitation.

2. *Fostering shared responsibility:*

Participation in the fight against commercial sexual exploitation is the responsibility of all sectors of society, be they public or private authorities, communities, or the families themselves.

3. *Generating cultural changes:*

There is an urgent need to build a culture of social intolerance towards this problem. It is thus essential to alter deepseated cultural models that justify the sense of ownership adults have over children and adolescents, as well as the gender discrimination that legitimizes buying sex from underage

persons, thereby turning them into sexual merchandise.

4. *Influencing public policies:*

Universal social policies should be strengthened as a step towards lessening the vulnerability of the victims in the face of the exploiters. Extreme poverty makes persons under 18 years of age easy targets for people profiting from this “business”. Other prevention policies aimed at eliminating child labour, preventing intrafamily violence and preventing children from dropping out of school play a fundamental role in this regard.

5. *Strengthening legal frameworks:*

Legislation should be improved by developing legal instruments for the rights of children and adolescents, and promoting the implementation of criminal laws and procedures to ensure action is taken against the exploiters, in order to avoid impunity.

6. *Developing comprehensive care programmes:*

It is the obligation of the State to set up and develop specialized comprehensive care programmes for underage persons at risk or victims of exploitation, in order that their rights may be fully restored.

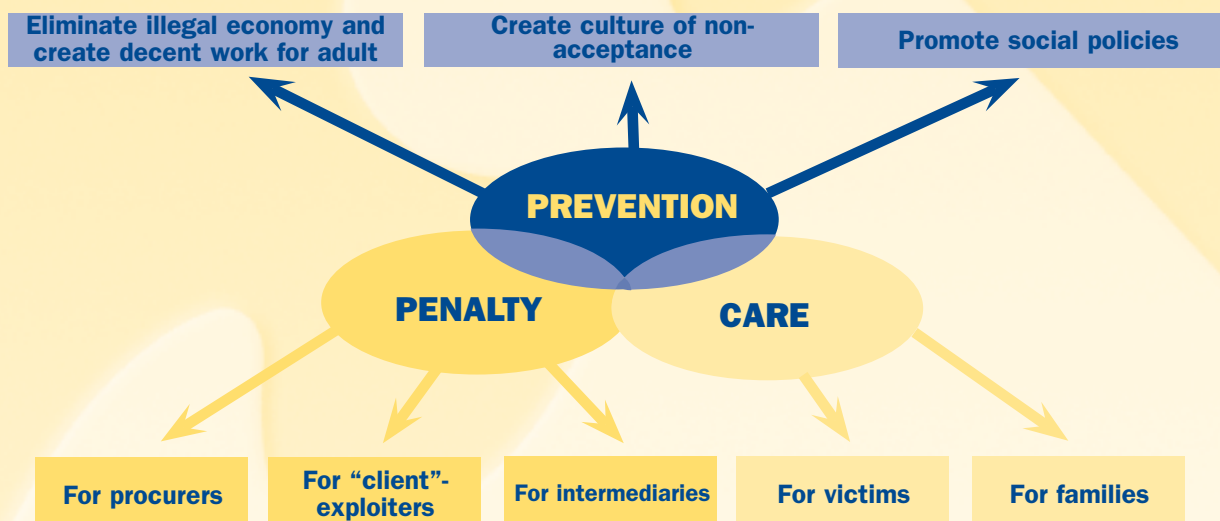
7. *Designing and coordinating regional and international cooperation policies, plans and programmes:*

CSEC is a problem that goes beyond countries’ national boundaries. Studies indicate the existence of organized international networks that promote the exploitation and facilitate trafficking for this purpose. Consequently, other actors such as migration offices, the police and legal powers, and child and adolescent protection organizations should also participate in tackling the problem – which would allow for action on the transnational level.

8. Implementing strategies according to the problem's characteristics:

All forms of CSEC should be eliminated, regardless of where they occur and where their exploiters are from; and the strategies

used to eliminate particular forms of CSEC should be specified. An effective model for putting a stop to CSEC should contemplate action on 3 levels:



International Instruments and Conferences

Different international legal instruments have been created to protect the human rights of individuals in general. It is crucial that the States that commit themselves by signing and ratifying these instruments fulfil their obligations established therein.

CSEC is contemplated in:

1. The ILO Convention 182 on the Worst Forms of Child Labour (C182):

This arose as a result of the need to adopt new instruments for prohibiting and eliminating a series of activities openly violating the rights of children and adolescents. It was adopted by the ILO (International Labour Organization) in June 1999 and has been ratified by all the countries in the region of Central America and the Dominican Republic.

This Convention requires the countries to take immediate and effective action to ban and eliminate all the forms of economic exploitation mentioned therein. At the same time, it demands that the importance of education, direct care and the rehabilitation and reinsertion of the children into society be taken into account, whilst attending to the needs of the families.

Its action is aimed at urgently eliminating the worst forms of child labour including all forms of slavery or similar practices such as the sale and trafficking of children, and using, procuring or offering persons under 18 for commercial sexual exploitation, among others.

Moreover, it establishes that the countries should take all necessary measures to ensure programmes designed to eliminate the worst forms of child labour are carried out –including the enforcement of criminal penalties– in order to achieve full implementation.

2. Convention on the Rights of the Child (CRC)

This is the most important legal instrument for protecting and promoting the human rights of persons under 18 years of age. Article 34 states that boys, girls and adolescents should be protected against all forms of sexual exploitation and sexual abuse.

In the early 1990s all the countries within the Central American region, alongside Panama and the Dominican Republic, ratified this Convention which sets down the obligation to protect children and adolescents who are being exploited. This means that if the families and communities have not been able to put a stop to situations of commercial sexual exploitation the State should act promptly and proactively to resolve this problem by adopting - in accordance with article 39 - "all the appropriate measures to promote the physical and psychological recovery and reintegration into society of any child who is the victim of: any form of abandonment, exploitation or abuse..."

According to the express definition of the CRC and ILO's Convention 182, "child" refers to any person under 18 years of age. This means that protection against this type of exploitation is for all children in that age group regardless of their age, sex, race, etc. However, it does not mean that adolescents cannot freely develop their sexuality as of the age established by each country's national legislation, but that they should be totally protected against all forms of exploitation in the same way that younger boys and girls are.

3. Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography.

On May 25, 2000 the United Nations General Assembly adopted an Optional Protocol to the CRC on the sale of children, child prostitution and child pornography.

This protocol underlines different activities that the countries should carry out in order to make progress in combating these severe rights violations such as sex tourism, economic exploitation and the circulation via the Internet of pornography using underage persons. The protocol is more specific than the CRC with respect to protection against commercial sexual exploitation, and, among other aspects, it underscores the need to take legal action against this kind of violation. It specifically mentions the sale of children, illegal adoption, child prostitution and child pornography. In addition, it points out the significance of international cooperation in combating these activities, as well as the importance of raising public awareness and providing educational information and campaigns to protect children against these forms of violence.

4. United Nations Convention against Transnational Organized Crime

This Convention (Palermo, 2000) and its protocols, in particular the Protocol to prevent, suppress and punish trafficking in persons –especially women and children– expressly provides for the obligation to punish trafficking in persons for the purposes of exploitation. Furthermore, it promotes cooperation between countries in order to prevent and combat the trafficking of persons, as well as to protect its victims.

5. Inter-American Convention on International Traffic in Minors

Its aim is to prevent and punish the act of illegally taking children and adolescents and sending them from one country to another. It seeks to establish a system of legal cooperation between the countries, and both legal and administrative provisions in order to ensure underage persons are not turned into trafficked "objects" and to provide care and protection for the victims affected by this crime.

6. Other regulations

There are other regulations in international instruments such as the Universal Declaration of Human Rights (1948) and the Convention on the Elimination of all Forms of Discrimination against Women, which are also violated by CSEC, as is the case, for example, with the ban on slavery and cruel or inhumane treatment.

7. International Conferences

The CSEC issue has also been a source of political concern at the majority of the international conferences carried out in the 1990s and at the beginning of this century. This is manifest in the declarations and programmes of action of the following international events: the World Conference on Human Rights (Vienna, 1993), the Fourth World Conference on Women (Beijing, 1995), the World Congress against

the Commercial Sexual Exploitation of Children (Stockholm, 1996), the Regional Government Congress on the Sexual Exploitation of Children (Montevideo, 2001), the Second World Congress against the Commercial Sexual Exploitation of Children (Yokohama, 2001) and the Follow-Up Meeting of the countries of Latin America and The Caribbean to the Second World Congress (San Jose, 2004).

At these latest events, representatives of countries, international organizations and non-government organizations (NGOs) from all over the world reinforced their commitment to combat CSEC and allocate the funds needed to achieve this goal. The need to make CSEC punishable as a crime, and to prosecute both national and foreign offenders, as well as ensuring the victims are not punished, was also stressed.

General Situacion in the Region

Legal framework

Concern over the seriousness of the CSE of boys, girls and adolescents has, at the international level, led to the signing of international legal instruments that commit the countries to take urgent action for its elimination.

All the countries in the region have committed themselves to this worldwide goal and have signed and ratified, or are in the process of ratifying, the majority of international instruments regarding this issue. The following table summarizes the efforts made by the countries with respect to international treaties:

	Belize	Costa Rica	El Salvador	Guatemala	Honduras	Nicaragua	Panamá	Dominican Republic
Convention 182 on the worst forms of child labour/ILO	06.03.2000	10.09.2001	12.12.2000	11.10.2001	25.10.2001	06.11.2000	13.10.2000	15.11.2000
United Nations Convention on the Rights of the Child/ UN	02.05.1990	21.08.1990	10.07.1990	06.06.1990	10.08.1990	05.10.1990	12.12.1990	11.06.1991
Optional Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography/ UN	06.07.2000	10.04.2002	24.02.2004	10.05.2002	09.05.2002	09.09.2002	09.02.1990	20.04.2005
United Nations Convention against Transnational Organized Crime/ UN	26.03.2003	24.07.2003	18.03.2004	25.09.2003	02.12.2003	12.10.2004	18.08.2004	13.12.2000*
Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which complements the United Nations Convention against Transnational Organized Crime/ UN	26.09.2003	09.09.2003	18.03.2004	01.04.2004	30.01.2008	12.10.2004	18.08.2004	15.12.2000*
Inter-American Convention on International Traffic in Minors/OAS	06.11.1997	22.05.2001	17.10.2005	--	--	07.10.2005	18.01.1998	--

* Signed

Sources:

Office of the High Commissioner for Human Rights. *Status of the main international human rights instruments (Estatus de los principales instrumentos internacionales de derechos humanos)* (2003) [online]. Available at: <http://www.unhchr.ch/pdf/reportsp.pdf> Consulted: [2006, 25th April] International Labour Organization. International labour regulations database, ILOLEX [online]. Available at: <http://www.ilo.org/ilolex/spanish/convdisp1.htm> Consulted: [2006, 18th April]

United Nations Office on Drugs and Crime. *Signatories to the UN Convention against Transnational Crime and its Protocols* [online]. Available at: <http://www.unodc.org/unodc/index.html> Consulted: [2006, 8th April] Organization of American States. Multilateral treaties. B-57: *InterAmerican Convention on international traffic in minors* [online]. Available at: <http://www.oas.org/juridico/spanish/firmas/b-57.html> Consulted: [2006, 18th April]

By ratifying this group of international Conventions the countries should amend their national legislation to ensure that the people who commit these crimes are prosecuted. Likewise, they should set up a national legal framework that guarantees the rights of children and adolescents in general and their right to protection and immediate care if they fall victim to sexual exploitation.

Within the framework of this readjustment process the regional balance is very positive. Costa Rica, El Salvador, Honduras the Dominican Republic, Nicaragua and Panama have carried out specific legal reforms regarding the prosecution of the commercial sexual exploitation of children and adolescents. This legislation is quite wide-ranging with respect to the different crimes, and the sentences are harsh. On the other hand, in Guatemala, Congress has approved the reform of article 194 of the Penal Code that deals with human trafficking, and has adjusted this text to the contents of the Trafficking Protocol, although the reform regarding CSEC crimes is still pending.

These types of laws are fundamental in that they provide the countries with tools suitable for researching, charging and prosecuting those who, individually or in an organized manner, commit crimes related to sexual exploitation.

Costa Rica was the first country to reform and add articles to the Penal Code by means of "Law 7899, against the sexual exploitation of children and adolescents", in 1999 and in 2007 a new important reform was done to the Penal and Procedure Code. On November 25, 2003 El Salvador passed "Decree No. 210 which reformed the Penal Code regarding sex crimes". In this case, sentences and types of crimes were modified, and other crimes were included in the chapter referring to Crimes against people's sexual freedom, which include all crimes that transgress the sexual indemnity and/or the sexual integrity of boys, girls and adolescents, thus penalizing CSEC in all its diverse forms and methods. In March 2004, "Law No. 16, which stipulates the requirements for the prevention and classification of crimes against sexual integrity and freedom, and modifies and adds articles to Penal and

Judicial Codes" was enforced in Panama. This law modifies and includes new articles in both codes for processing and penalizing CSEC; in addition, specific authorities are set up for research. In 2008 a new Penal Code was approved and includes the majority of CSEC related crimes.

In Guatemala the reform of the legislative body, in regard to criminal issues, is under national discussion, and agreed changes of the law have not yet come into force.

In Honduras, in 2005, the bill entitled "Decree of reforms to title II of the crimes against sexual freedom and honesty of the Penal Code was approved, and it adjusts the tutelary legal asset in the "People's physical, psychological and sexual freedom and integrity", and that includes CSEC crimes. State institutions and NGOs grouped around the Follow-up and Town Council Commission, which was set up specifically to follow up on these reforms, played an active part in the latter.

With regard to the Dominican Republic, a special law on the illegal trafficking of migrants and human trafficking (Law No. 137-03) was passed in 2003. However, it is necessary to work on the reform of some of the provisions of this law in order that it may adequately reflect the contents required by international law on the trafficking of children and adolescents, and it is also necessary to work on reforming the current Penal Code for it to adequately include CSEC crimes.

Belize's Trafficking in Persons (Prohibition) Act of 2003 takes a human rights approach to crimes involving children. In accordance with this Act, evidence of a victim's past sexual behaviour is "irrelevant and inadmissible for the purpose of proving that the victim engaged in other sexual behaviour or to prove the victim's sexual predisposition". Furthermore, the Act states that the legal age of consent cannot be used in defence of the crime of trafficking in persons. This may serve as a model for legislative reform initiatives as they pertain to sexual offences against children.⁵ With respect to criminal legislation, commercial sexual exploitation crimes must be reviewed and adapted therein.

5 ILO/IPEC's "Commercial sexual exploitation of Children and Adolescents in Belize. Assessment of the Institutional Response". Elaborated by Isis, 2006.

In order for these reforms to adjust to international commitments it is necessary for the discriminatory content to be eliminated from criminal laws and ensure they at least include the typification of and severe sentences for conduct such as paid sexual activities with underage persons; different forms of participation in the production of child and adolescent pornography; the trafficking and sale of persons under 18; the use of underage persons in sex shows; and promoting tourist activities involving the use of children and adolescents in sex acts. Furthermore, other general and procedural reforms should be promoted including the international and public persecution of these crimes; extending periods in which legal action prescribes and extending sentences to take into account the disadvantages faced by the children and adolescents reporting these crimes; penalties of incarceration; the confiscation of goods used to perpetrate the crime, and, among others, the obligation to compensate the victims.

With respect to promoting the rights of children and adolescents in national legislation, it is worth noting that in Honduras, Costa Rica, Nicaragua, the Dominican Republic, Belize, and, more recently, Guatemala, Children's and Adolescents Codes have been in force since the mid 1990s. Panama and El Salvador, for their part, still do not have this specific kind of legislation.

The Child and Adolescent Codes promote the set of individual and social rights of persons under 18 years of age in order to ensure their full development and welfare, and reduce their vulnerability to numerous risks such as, for example, being subjected to sexual exploitation.

Institutional Framework and National Policies

Since the previous decade, discussion groups have been set up in each of the countries to decide on the strategies and main courses of action to be adopted in order to tackle the issue. In some countries the NGOs led the discussion, whilst in others it was certain public institution staff members already sensitive to the issue who began extensive discussion on it. Some of these groups have been gradually institutionalized and

many are presided over by authorities responsible for the protection of children and adolescents.

For the purposes of inter-institutional coordination, in Costa Rica there is the National Commission against the Commercial Sexual Exploitation of Boys, Girls and Adolescents (CONACOES); in Nicaragua, the issue is dealt with by the National Council for the General Care and Protection of Children and Adolescents (CONAPINA); El Salvador has set up the Working Session against the commercial sexual exploitation of boys, girls and adolescents; in Guatemala the Discussion Group was set up; in Honduras there is the Inter-Institutional Commission against the commercial sexual exploitation of boys, girls, adolescents and women; the Dominican Republic consolidated its Commission against the commercial sexual exploitation of boys, girls and adolescents; and, finally, in Panama, as of February 2005, the nation's Attorney General's Office has convened the National Commission for the Prevention of Crimes related to Sexual Exploitation (CONAPREDES), which, due to the rank accorded it by Law 16, is the authority responsible for studying the mechanisms for preventing and eliminating crimes related to sexual exploitation. Finally, in Belize, the authority that coordinates institutional efforts for combating the commercial sexual exploitation of underage persons is the National Committee for Families and Children (NCFC).

At the First World Congress against Commercial Sexual Exploitation held in 1996 (Stockholm), the participating countries pledged to draw up national plans of action against CSEC. This commitment has also been reinforced by the ratification of the ILO Convention 182 during the years 2000 and 2001, which states that the countries should have action programmes to eliminate the worst forms of child labour, including sexual exploitation.

Seven countries in the region have plans aimed specifically at preventing and eliminating the commercial sexual exploitation of boys, girls and adolescents, and many of these have been drawn up within the framework of national policies on children and adolescents.

El Salvador has its national Plan for the Eradication of the Worst Forms of Child Labour 2006-2009, that includes CSEC; Guatemala has been developing a National Plan of Action against the commercial sexual exploitation of boys, girls and adolescents since 1998; in 1999 the Dominican Republic drew up its Plan of Action against the commercial sexual exploitation of boys, girls and adolescents; and in November 2003 Nicaragua officially presented its 2003-2008. Honduras approved its National Plan in 2006. Panama and Costa Rica approved their Plans in 2008 (this is Costa Rica's third one). In the case of Belize, the National Plan of Action for Children and Adolescents in Belize 2004 – 2015 establishes as a major goal setting up, strengthening and expanding the institutional infrastructure to protect the rights of children and adolescents "from all forms of abuse, neglect, unacceptable forms of child labour, sexual and commercial exploitation, trafficking, abduction, violence, and exposure to threatening situations." The fulfilment of these obligations involves the ability to clearly define and tackle the problem of CSEC.⁶

In drawing up these plans each country has undergone a process of acknowledging the problem and there have been important national debates on how to eliminate it completely without laying the blame on the victims. A large number of public and private institutions have participated in this discussion and the process has led to closer collaboration between the institutions concerned with the issue of the human rights of children. It has also involved raising the awareness of a large number of staff who, by deepening their understanding of the problem, have taken steps to combat CSEC in their respective institutions. The strategies set out in the plans are wideranging and encompass legal aspects, as well as prevention, repression and direct care for the victims. However, their main weakness lies in the difficulties encountered in allocating the budget required for their effective implementation. This has meant that the actions developed have, in many instances, had to rely on funding from international agencies or NGOs, and the perseverance of individual government employees concerned with deterring this severe

form of violating the human rights of children and adolescents.

Although numerous institutions have participated in drafting these plans, coordination between the institutions must be strengthened in each country in order that it may move beyond discussing strategies at the central level and developing specific, individualized and poorly coordinated activities.

Inter-institutional coordination efforts in rural and urban areas to prevent and resolve specific cases of CSEC have been few and far between. The institutions are often not exactly clear as to where their duties and legal responsibilities lie with regard to identifying, intervening in and following up on cases. Given the issue's multiple causes, decisive and adequate intervention is required from a broad range of institutions. When the latter do not respond in the required manner the impact of the measures taken falls short of their expectations, or is rendered ineffective.

In this sense there is a great deal of work to be done in issuing institutional guidelines on how to deal with the problem and training all staff. This is true of both the institutions providing care for the victims and those investigating CSEC crimes with a view to punishing the exploiters.

Moreover, it is crucial to begin continuous monitoring of the situation and of the measures developed in order to assess their impact. This matter is, to date, still pending in the countries within the region.

Finally, the problem of the trafficking of boys, girls and adolescents in particular and persons in general, is cause for concern and has led public institutions and non-government organizations – with the support of international bodies – to form groups or coalitions to combat it. Between 2003 and 2004 groups were set up in Guatemala, El Salvador, Costa Rica and Nicaragua. In the remaining countries, when trafficking occurs for these purposes, the work undertaken in regard to this issue is included in the national plans to fight CSEC.

6 ILO/IPEC's "Commercial sexual exploitation of Children and Adolescents in Belize. Assessment of the Institutional Response". Elaborated by Isis, 2006.

ILO/IPEC's contribution to the fight against Commercial Sexual Exploitation

Since it adopted the ILO Convention 182 in 1999, the ILO's International Programme for the Elimination of Child Labour (IPEC) has stepped up efforts to support the countries of Central America, Panama and the Dominican Republic in combating CSEC.

Some of the strategies employed to deal with the problem include the following:

Regional collaboration

The region's countries face similar institutional and legal challenges in tackling the problem, which is why the important lessons learned can be extremely useful to others. In addition, some of the signs of CSEC, such as sex tourism, the trafficking of underage persons for sexual purposes, as well as the circulation of child and adolescent pornography via the Internet, are problems that can only be overcome by means of the mutual support of all the countries as a whole. Despite this, the exchange of information on lessons learned and good practices in the fight against sexual exploitation is currently still in its early stages.

The ILO/IPEC is supporting the countries in this struggle in order that they may establish contacts and exchange more experiences.

A directory has been set up with information on all the authorities working on the prevention and elimination of the problem, in order to facilitate contacts between similar institutions in the region. A Web page has also been designed for consulting the national plans and relevant legislation, and a variety of materials on the entire region are also available.

Some of the lessons learned in the fight against sexual exploitation are being made known through the exchange of staff from one country to another. An example of this is Costa Rica's

successful legal investigation of CSEC cases led by the State Prosecutor's District Attorney's Office for Sex Crimes, which has been shared by various countries in the region including Panama, El Salvador, Honduras, Nicaragua and the Dominican Republic. Exchanges between members of parliament are also being promoted to bring about and consolidate the changes that need to be made to criminal legislation for combating CSEC.

In the legal sphere, the ILO/IPEC has undertaken a process of consultation and definition -with the help of legal experts in the field -to establish the minimum requirements that need to be provided for in criminal codes in order to penalize the different conducts related to CSEC. The aim of this is to ensure that paedophiles and sex tourists in search of nations with loopholes in the application of criminal penalties will not be able to view any of the countries in the region as a "legal haven".

Finally, several regional studies, educational materials and thematic bulletins -including a guide for developing comprehensive care programmes for the victims of CSEC - which respect all their rights as a whole, have been developed jointly for the benefit of the entire region.

Strengthening institutions

Despite the progress made in the region in combating the problem, there are still considerable gaps in implementing both criminal procedures for prosecuting the exploiters, and policies and plans aimed at preventing the problem, as well as in providing comprehensive care for the victims.

The ILO/IPEC has carried out **nationwide surveys** on the issue, together with research authorities, in each of the countries in the

region, which have provided information on the victims' socio-economic situation, as well as on certain characteristics common to the exploiters and information on the institutional response to putting an end to the problem.

In the countries as a whole, the ILO/IPEC supports the strengthening of institutions through **technical consultancy, improving coordination between institutions, and training for key staff** such as those in the health sector and education as well as migration officials, police officers and legal administrators.

Support has also been provided in several countries for the **process of adapting national legislation** to international regulations by creating opportunities for discussing and formulating proposals for changing the Penal Code. Panama, Honduras and El Salvador, who have recently changed their penal codes, are examples of this.

Moreover, the countries receive support for the **drafting and application of manuals and guides** for key sectors in order that there may be greater clarity regarding the duties and responsibilities of each authority in the fight against sexual exploitation. These tools aim to create the capabilities required by the State to tackle the problem both now and in the future.

In the countries **direct care programmes** for the victims of CSEC are also being developed in conjunction with public and private institutions. In addition to providing protection and services for the victims, these programmes aim to increase lessons learned that contribute to local and national policies dealing with this issue. An innovative aspect of these is the strategies developed to ensure victims are rapidly reinserted into their families and communities.

Awareness and social mobilization

A fundamental strategy in the fight against CSEC is raising public awareness of the problem. There is still widespread social tolerance towards sexual exploitation in many sectors as well as ignorance of the legislation and individual and institutional responsibilities that exist to prevent it.

In each of the countries the ILO/IPEC has developed **training workshops together with the media** in recognition of its fundamental role as a strategic ally in the fight against this social ill.

Likewise, awareness of the issue has been raised by developing numerous activities aimed at sensitizing, informing and mobilizing key sectors in order that they may take steps to prohibit, prevent and eliminate sexual exploitation. A large number of **forums, round tables and other public activities** are among those being developed in each country to inform government officials, national and local politicians, key professionals, civil society authorities, and staff and workers of the problem and of how they should support the fight against this social ill. Much material for widespread coverage has also been produced for these same target groups such as TV advertisements, radio slots and written material.

For further information on this issue and on the project entitled "Contribution to the prevention and elimination of the commercial sexual exploitation of children and adolescents in Central America, Panama and the Dominican Republic", developed by the ILO/IPEC, visit the following website:

www.oit.or.cr/ipec/esc

Immediate and effective measures are urgently required to ensure the prevention, prohibition and elimination of the commercial sexual exploitation of children and adolescents.

In Central America, Panama and the Dominican Republic, the ILO participates in this struggle by supporting the countries' implementation of the 182 Convention on the prohibition of the worst forms of child labour.

The ILO regards commercial sexual exploitation as a crime equivalent to slavery and forced labour; it recognizes the right of persons under 18 years of age to be protected against this form of sexual violence and promotes the search for, prosecution and penalization of those involved in using boys, girls and adolescents for commercial sexual activities.



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With the financial support of the United States Department of Labour



Stop the commercial sexual exploitation of children!