



# Global Report

INTERNATIONAL TRIBUNAL FOR CHILDREN'S RIGHTS

International Dimensions of the  
Sexual Exploitation of Children

## Summary and Recommendations



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# Note to readers

It is with great pleasure that I present to you this summary of the *Global Report – International Dimensions of the Sexual Exploitation of Children* together with the Recommendations adopted by the International Tribunal for Children’s Rights as part of this report.

The complete version of the *Global Report – International Dimensions of the Sexual Exploitation of Children*, originally published in English in 1999 and in French in 2001, is also available from the International Bureau for Children’s Rights as well as from its website: [www.ibcr.org](http://www.ibcr.org)

We hope that this publication will be a valuable resource for your work, and that it will increase awareness of the special protection to be afforded to children against sexual exploitation.

A handwritten signature in black ink, appearing to read 'J. Noël', with a stylized flourish at the end.

Jean-François Noël  
Director General  
International Bureau for Children’s Rights

# International Tribunal for children's rights

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## **Global Report – International Dimensions of the Sexual Exploitation of Children**

### Summary

In order to address the international dimensions of the sexual exploitation of children, the International Bureau for Children's Rights organized the holding of an International Tribunal for Children's Rights involving three Public Hearings between 1997 and 1999. These were held in Paris (France) on extraterritorial legislation in response to the international dimensions of the sexual exploitation of children, in Fortaleza (Brazil) on the sexual exploitation of children in Brazil, and in Colombo (Sri Lanka) on international cooperation in the struggle against the international dimensions of child sexual exploitation. The Tribunal is a 'moral court' that provides a forum for public testimony and the sharing of experiences, expertise and views, on the basis of which the five judges composing the Tribunal encourage the international community to take action through their recommendations. This Global Report, drafted by the Rapporteur, contains: the evidence heard during the three Hearings; lessons learned; recommendations made by the judges for effective future international and national actions to protect children from sexual exploitation; and a description of extraterritorial laws to combat sexual exploitation of children in more than 20 countries in Annex I.

In the chapter on **children in a global community**, the report highlights the need to consider children as legal subjects and to respect their dignity and human rights. It mentions the complex connection between the specific sexual offences committed against children, the age of sexual maturity and the principle of double criminality, all of which may vary from one country to the next and can influence whether or not a prosecution can take place in the field of extraterritorial legislation.

With regard to the **international dimensions of the sexual exploitation of children and the response thereto**, the report stresses that sexual exploitation of children is primarily a

national problem, not confined to sex tourism or specific to developed or developing countries. Every case being unique, solutions cannot be universal, and although necessary, legislation is insufficient in eliminating sexual exploitation given the cultural, social and economic circumstances in which children are exploited. Preventive and protective measures, as well as recovery and reintegration are mentioned as strategies to counteract the problem. The report refers to the role of international mechanisms such as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the UN Working Group on Slavery, the two Special Rapporteurs on the Sale of Children, Child Prostitution and Child Pornography, and on Violence against Women, as well as UNICEF, the International Criminal Court, the Declaration and Agenda for Action of the Stockholm World Congress, INTERPOL and NGOs.

The report refers to **extraterritorial legislation** as one of the global responses to child sexual exploitation. Such legislation makes it possible to prosecute, in their own country, sex tourists or others who have committed a sexual offence against a child in a country other than their own. Examples are given of extraterritorial legislation in some countries, with detailed legislation in over 20 countries contained in Annex I. The report emphasizes that avoiding further mental and physical harm and ensuring the dignity and safety of children, including child witnesses, in investigative and legal procedures, is one of the top priorities in **protecting children**. A further concern mentioned in the report is **child pornography on the Internet**, with the need for new laws to prevent the production, distribution and possession of pornography.

In the final chapters, the report points to **international cooperation to fight sexual exploitation** through inter-governmental cooperation, cooperation between States and civil society and between personnel in countries involved in an extraterritorial investigation and/or prosecution.

# Recommendations

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**T**he Members of the International Tribunal for Children's Rights,

Considering that, in adopting the UN *Convention on the Rights of the Child*, the international community has reiterated its interest and determination in promoting the well-being of children and the respect of their rights;

Recalling that, pursuant to articles 19, 32 to 36 of the UN *Convention on the Rights of the Child*, States Parties have undertaken to protect children from all forms of abuse and exploitation, including all forms of sexual exploitation and sexual abuse;

Recalling that, to this end, States Parties to the UN *Convention on the Rights of the Child* have undertaken to take all appropriate national, bilateral and multilateral measures to prevent: 1) the inducement or coercion of a child to engage in any unlawful sexual activity, 2) the exploitative use of children in prostitution or other unlawful sexual practices, and 3) the exploitative use of children in pornographic performances and materials;

Propose the following recommendations:

## 9.1 International action

1. International co-operation should include, but not be limited to, further discussion of the Draft Optional Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.
2. A Working Group should be established at an international level to develop a separate treaty that would reconcile the legal, administrative and investigative rules of concerned nations in order to facilitate the implementation of extraterritorial legislation in cases of the sexual exploitation of children. The agenda of this working group should include, but not be limited to:
  - a) Definitions of sexual offences against children;
  - b) Reconciliation of chronological ages of children with respect to sexual offences against children and the age of consent to sexual activities;
  - c) The inter-relationship between rules of double criminality and the definition of ages;
  - d) International agreements about, and the possible elimination of, double criminality;
  - e) Rules concerning testimony;
  - f) Standards of acceptable proof.

3. In light of the expansion of international tourism, the manner in which this industry is promoted should be modified so that ecological, historic and architectural aspects are promoted, rather than information about a culture's supposedly 'sensual and exotic' nature;
4. Promote regional international courts of child rights, with child-friendly procedures to enhance child protection.
5. Promote, develop or improve:
  - a) Regional treaties or conventions against trafficking in children;
  - b) Extradition treaties;
  - c) Mutual co-operation agreements to ascertain the evidence to assist prosecutions;
  - d) Memoranda of understanding between different countries to promote training on child protection, information exchange and development assistance;
  - e) Stationing of police liaison officers in different countries;
  - f) Joint police/immigration information sharing and action in co-operation with INTERPOL and related agencies.
6. To this end, international co-operation should be encouraged and reinforced through agreements at international, regional and bilateral levels, building on the experiences gained from the implementation of existing memoranda of understanding, such as those between the governments of the United Kingdom and the Philippines, and Germany and Thailand;  
These agreements should entail:
  - a) Co-operation between relevant ministries, law enforcement agencies and legal professionals;
  - b) Exchange of information and the development of data bases;
  - c) Training at all levels, including specialist interpreters;
  - d) Support and resources;
  - e) Exchange of research results;
  - f) Monitoring and documentation of the implementation of extraterritorial legislation and bilateral agreements.

## 9.2 National actions

1. The guiding instrument for action to assist and protect children is the United Nations *Convention on the Rights of the Child*. This is complemented by the Declaration and Agenda for Action of the 1996 World Congress against Commercial Sexual Exploitation of Children ('The Stockholm Declaration and Agenda for Action').

A key principle is the best interests of the child. Legislative and related improvements at national level should comprise the following:

- a) Countries that have not yet ratified the *Convention on the Rights of the Child* should do so;
  - b) Timely national reports should be sent to the United Nations Committee on the Rights of the Child under Article 44, including verifiable, scientific data on all aspects of child sexual exploitation as laid out in Article 34 of the Convention;
  - c) The age for protection of the child from sexual exploitation (child prostitution, child pornography and child sexual trafficking) should be raised; the preferred age for protecting the child absolutely from sexual exploitation, irrespective of sexual consent, is 18 years;
  - d) Elevate the profile of child rights in the political agenda and set a higher priority for child protection, while inviting all politicians and political parties to have a policy on child protection; implementation of national laws and policies on child protection;
  - e) Introduce extraterritorial laws to cover the misdeeds of nationals and residents when committed against children in other countries;
  - f) Promote effective law enforcement in both the destination countries and the countries of origin of child sex abusers/exploiters;
  - g) Recognise the role of NGOs in interventions on behalf of child victims;
  - h) Make it mandatory for professionals and others who come into contact with information on child abuse/exploitation to report it to the authorities;
  - i) Establish registers of convicted paedophiles so as to facilitate tracing of their movements;
  - j) Provide more and better incentives for quality law enforcement;
  - k) Establish specialised police units on child protection with trained personnel, including women police officers.
2. Networking and co-operation between government agencies and NGOs should be fostered. This should be enhanced by community mobilisation to involve the business sector, including the computer and tourism industries, the media, local communities, leaders, parents and children as a vigilant force against child sexual abuse/exploitation. A directory of NGOs working on child protection should be identified and/or compiled for broad dissemination.
  3. At national levels, multidisciplinary teams comprising lawyers, doctors, social workers, psychiatrists/counselors, etc. should be formed to provide integrated interventions to help the child victim. These need to be coupled with more accessible services, including the following:
    - a) Free telephone services for receiving complaints;
    - b) Advertisements and other publicity giving addresses of help for victims;
    - c) Information on television and radio, as well as mobile information facilities reaching out to child victims;
    - d) Centres offering counselling and other therapies to assist victims;
    - e) A pool of experts in forensic medicine to help with cases;
    - f) Specialised units to assist in the collection of evidence, including DNA fingerprints.
  4. Resource mobilisation and allocation should be maximised to reduce duplication; there can be more pooling of information, personnel, budgets and other resources for the best interests of the child.
  5. Promote community participation in the detection, investigation and prosecution of cases, as well to ensure the recovery and reintegration of child victims in a child-sensitive manner.
  6. Child and youth participation should be maximised, and their networks should be supported as part of a civil society force against child sexual exploitation.

### 9.3 The protection of children

The protection of children must be the first priority in all legislation and implementation of legislation aiming to combat the international dimensions of the sexual exploitation of children. Without prejudice to the presumption of innocence of the accused, this means that no harm should be caused to children in the course of investigations carried out for, or legal processes involved in, prosecuting and convicting those who commit sexual offences against children.

This principle entails that:

#### 9.3.1 With respect to investigations

1. Investigations should not be carried out in ways that:
  - a) Are psychologically damaging to children;
  - b) Put children at risk of intimidation or physical danger.
2. Children must be protected from intimidation and physical danger, as well as undue disruption to their lives, identities or economic security, during the period before and during court proceedings.

#### 9.3.2 With respect to proceedings

3. The best interests of the child (Article 3(ii) of the Convention on the Rights of the Child) and the right to have his/her opinion taken into account in all decisions taken on her/his behalf (Article 12 of the *Convention on the Rights of the Child*) should be the guiding principles in decisions about whether a child should:
  - a) Travel to the country of the accused to give evidence;
  - b) Give evidence by video link, either between countries or in the country of the accused;
  - c) Give evidence in court;
  - d) Give evidence in some other place.In all such decisions, due consideration should be given to the child's age, maturity and culture.
4. Child victims in sexual exploitation cases pursued through the application of extraterritorial legislation should not be cross-examined aggressively and in particular not to a greater extent than adults or than children who are nationals of the country of the accused. Domestic legislation should be amended to ensure that this is the case:
  - a) A child's prior reputation should be inadmissible evidence with respect to his or her credibility;
  - b) The interpretation of rules and procedures should be flexible in order to reflect the principle of the protection of children. Systems should adjust to the special vulnerabilities of children;
  - c) Interpreters in investigative and legal proceedings should receive specialist training to enable them to deal sensitively with sexually exploited children. They should be able to express themselves fluently in both the dialect of the child and the language of the court. They should be aware of the cultural mores of the child's society and social group;
  - d) Law enforcement and legal professionals should receive specialist training in communicating with and listening to sexually exploited children;

- e) At national and local levels, special courts, judges and procedures should be made child-friendly and gender-sensitive, in order to deal with situations of child abuse/exploitation. Judges and other law enforcers, including the police and prosecutors, at all levels need to be trained and sensitised to promote and respect child rights. A pool of trainers/educators has to be developed.
5. The quest for child-friendly procedures is based upon the need to avoid re-traumatisation of the child victims/witnesses via the judicial or other processes, especially in the pre-trial and trial stages. Such procedures could include the following:
  - a) Inform child victims/witnesses of their role in regard to the court proceedings;
  - b) Allow their views to be heard and respected;
  - c) Provide proper assistance, including legal aid and assistance, and the availability of a lawyer to help them throughout the proceedings;
  - d) Minimise inconvenience to them and respect their privacy;
  - e) Reduce delays in the proceedings;
  - f) Eliminate aggressive questioning or cross examination of child victims;
  - g) Provide for trials in camera;
  - h) Protect the identity of the child victim;
  - i) Prepare child victims for the judicial process and avoid rushing to prosecute alleged abusers if a child is not ready to go to court;
  - j) Ensure early medical examination of the child and avoid multiple re-examinations;
  - k) Record a child's testimony as early as possible after the abusive incident, with other witnesses at hand;
  - l) Provide adequate translations/interpretations and translators/interpreters who are sensitive to children's needs;
  - m) Keep children in a safe environment;
  - n) Provide for videotaping of child testimonies and video-link in court to prevent confrontation between a child and an alleged abuser;
  - o) Legal aid and assistance should be made available to child victims;

- p) The special needs of the child victims/witnesses should be catered for. These include the following:
  - i. Enable children to familiarise themselves with the court surroundings;
  - ii. Inform children of the different roles of the key persons at court, such as the judge, the defence lawyer and the prosecutor;
  - iii. Inform the court of the special needs of children in general and of individual children in specific cases;
  - iv. Help children to be comfortable in the proceedings;
  - v. Encourage questioning to be short and clear so as not to confuse child witnesses.

### 9.3.3 With respect to follow-up

6. Victim support services should be alerted to and involved in all cases involving extraterritorial legislation and the sexual exploitation of children to provide culturally-appropriate counselling and socio-economic support to children at all stages in the process, including follow-up;
7. Children who have been victims of sexual exploitation and/or trafficking should not be repatriated unless follow-up support can be provided and certainly not if there is evidence that repatriation might threaten their physical security;
8. The physical and psychological damage to child victims needs to be dealt with more effectively. This may imply the availability of mandatory counselling and other psychological help;
9. States should allocate effectively the resources necessary for the follow-up and rehabilitation of those persons found guilty of sexual crimes, including:
  - a) Recruiting and training adequate technical personnel (such as psychologist, social workers and doctors);
  - b) Providing adequate solutions to the incarceration of sexual offenders.

### 9.4 Legislation

1. The implementation and consequences of statutes of limitation should be researched and reviewed;
2. The implementation of extraterritorial legislation with respect to the sexual exploitation of children should have the objective of establishing sustainable systems for prosecuting individual and corporate offenders. Such systems should:

- a) Not rely on or be limited to voluntary or individual efforts;
  - b) Be able to deal with cases systematically, rather than on an occasional basis;
  - c) Be cost effective;
  - d) Be seen to be effective so that they act as a deterrent.
3. Current legislation relative to commercial sexual exploitation in general should be reviewed with a view to:
    - a) Full legal recognition of the rights of children and adolescents to their sexuality;
    - b) Permitting adequate classification of violations to these rights;
    - c) Clearly defining the penalties to which exploiters and clients are subject.
  4. At the same time it is essential to ensure that legal and justice administration systems are equipped with better infrastructure, without which there can be no effective or uniform application of the law.

### 9.5 The Internet

1. To ensure effective co-operation at international level between States and civil society, resources should be sought for the establishment of a specialised, permanent forum for the exchange of information, including a web site on the Internet.
2. Countries should be called upon to provide a legal framework to protect children from sexual abuse/exploitation via the Internet as follows:
  - a) Enact or reinforce legislation against child pornography;
  - b) Ensure that such legislation covers not only the production and distribution of child pornography but also its possession;
  - c) Extend the scope of such legislation to encompass the Internet;
  - d) Make provisions to combat pseudo-child pornography;
  - e) Implement effectively the laws concerned.
3. The response of the computer industry, especially the Internet Service Providers, against child pornography should be promoted. This may entail self-regulation through a Code of Ethics, as well as a mechanism to receive complaints and cross-referral to the law enforcement agencies.

4. Children and parents should be made more aware of not only the benefits of the Internet as a tool of education and communication but also the underlying threats. This entails the following actions:
  - a) More education for parents and children to be vigilant against harmful and/or illegal content;
  - b) Greater use of ratings and filtering systems to block such content.
5. Software to block and erase child pornography on the Internet should be developed.

### 9.6 Monitoring and evaluation

1. Monitoring of laws, policies, programmes and personnel dealing with child protection needs to be promoted so as to assess their impact on children and improve their capacity.
2. Activities/programmes to assist and protect children should be assessed from the angle of sustainability to prevent the problems leading to abuse/exploitation, to protect the children affected and to promote their recovery and reintegration, including follow-up of cases;
3. Information about 'best practices' concerning interventions to help children should be collected and disseminated to improve performance.

### 9.7 Training

1. Training of relevant professionals, including law enforcement personnel, judges, magistrates, welfare workers and researchers, should take into account the special requirements of child victims and child witnesses, with respect to the provisions of the *United Nations Convention on the Rights of the Child*. In addition, specialist training for national level focal points within all professions that are involved in the implementation of extraterritorial legislation in combating the international dimensions of the sexual exploitation of children should take place, with particular reference to the experience gained in existing training programmes.

Training issues include, but are not limited to:

- a) Communicating with and listening to children;
- b) Cultural meanings and linguistic issues involved in understanding the sexual exploitation of children;
- c) The development of 'child-friendly' investigative and legal procedures;
- d) Appropriate research skills.

### 9.8 Information management

1. Research and documentation should provide the basis for informed collaboration. In particular, research is required on:
  - a) Monitoring and evaluation of the implementation of extraterritorial legislation in combating the international dimensions of the sexual exploitation of children;
  - b) The impact of training programmes for professionals in this field;
  - c) The potential of extraterritorial legislation in combating the dissemination of child pornography, particularly through electronic networks such as the Internet;
  - d) The impact on children of involvement in international legal action against child sex offenders.
2. Greater dissemination of child rights and related laws, policies etc. is required. This should go hand in hand with circulation of information, training, awareness raising, sensitisation and education of target groups, such as law enforcers, to motivate them to protect children and of the community at large as child protectors. The issue of education about sexuality in a culturally sensitive manner also has to be tackled effectively.
3. Data and information concerning child sexual abuse/exploitation should be made more systematic and transparent, as they will have direct impact on the types of interventions needed to help children. Regional and national data banks should be established to collect experiences, laws, policies, court judgements etc. concerning action against child sexual abuse and exploitation.
4. Governments, if necessary with the help of international agencies, must take stock of all research conducted on the state of sexual exploitation in the country, and deepen their knowledge as to the causes and consequences of the problem. This means collecting and analysing reliable data.
5. Educational systems should include information and discussions on sexuality beyond the discipline of sex education, and simple classes on human biology, in such a way as to make sexual education an integral part of the school curriculum.



6. Promote awareness raising campaigns for the general public about the different forms of sexual exploitation, through the combined efforts of governmental and private organisations whilst encouraging universal participation and diminishing the level of widespread tolerance towards these acts.
7. Control over television programming must be maintained in order to convey information that may be useful to parents in selecting appropriate programs for their children, and to regulating scheduling restrictions for programs considered not appropriate for children and adolescents (including advertising).

### 9.9 General social measures

1. All interventions affecting child victims must be made more child- and gender- sensitive, bearing in mind the particular situations of girls;
2. Work towards a wider cultural transformation in attitudes towards childhood, sexuality and gender;
3. Address fundamental aspects of the fight against sexual exploitation such as the redefinition of sexual crimes;
4. Victim protection programmes and programmes to protect child rights defenders from harassment should be enhanced;
5. Address root causes in social and economic differences. Make social welfare assistance widely available and, where justified, special assistance must exist for persons who are victims of sexual abuse, through specialised prevention and protection services;
6. National and international courts and other authorities must be severe with individuals who abuse their positions of power or authority (including judges and police officers) humiliating, insulting or otherwise discrediting the testimony of plaintiffs in matters of sexual assault;
7. Better protection must be awarded to witnesses and victims, notably by adopting and reinforcing instruments such as the GAJOP (operational, juridical support group and protection to victims and witnesses) actually in force in Brazil;
8. Special attention should be given to existing legislation that protects domestic workers, whose situation of double exploitation (economic and sexual) places them in a particularly vulnerable state;
9. There needs to be an increase in the number of criminal procedures brought against sexual aggressors in an attempt to counter the loopholes and cracks in the legal systems, and in their manner of dealing with complaints.

### 9.10 The International Bureau for Children's Rights

is invited to take the following actions:

1. Compile, as a matter of urgency, information about 'best practice' in the field of children-friendly systems and procedures with a view to broad dissemination of the findings;
2. Request governments, the computer industry, NGOs and other concerned actors to provide information on the use of the Internet, especially the current situation concerning child pornography;
3. Request governments, the computer industry, NGOs and other concerned actors to send updates of legislation concerning child pornography, including criminalisation of the possession of child pornography;
4. Collect and disseminate information on extraterritorial laws and contact points for follow-up of cases;
5. Support training programmes for law enforcers and community watchdogs on investigation techniques against child sexual exploitation, including in regard to the Internet;
6. Establish a system for monitoring the present recommendations including a division of tasks and responsibilities between national and international organisations in order to follow-up on the results which will be obtained in every area;
7. Ensure that this Report is widely distributed.

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