Child prostitution and pornography: 
The making of international law 1974–1995

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Introduction

The problem of child prostitution and pornography is about crime and criminals. It is about adults, not children. It is about lack of political will; lack of respect for children; lack of education and employment opportunities, mostly for girls; lack of police and judicial understanding — not so much about grinding poverty.

Yet, information over the past few years has focused more on the child victims of this form of exploitation, than on their abusers, the “clients”, the exploiters, the criminals. More is known about the children who are caught in this web of criminality and their reasons for being there, than about the men, and in some cases women, who either seek them out as sexual objects or use their talents to organise the trade in children for sex.

Obstacles to the elimination of child prostitution and pornography

Despite numerous efforts over a period of nearly twenty years, the international community’s ability to move forward on the elimination of child prostitution and pornography has been seriously hampered by a lack of reliable data, of a solid body of knowledge on the extent and mechanisms of the sale and exchange of children for sexual purposes. Consistent data-gathering has been impeded by such problems as variations in terminology, differences in national law and inadequate follow-up of local programmes.

Absence of universally accepted terminology

At the present time there are no internationally agreed upon terms to define this particular type of children’s rights violation. Internationally, it may be referred to as “sexual exploitation”, “sexual abuse”, “commercial sexual exploitation”, “sale of children for sexual purposes” and, of course, it is all of these. But, these terms are often without adequate qualification hence some analyses do not make a differentiation between incest and prostitution, while others confuse homosexuality in general with pedophilia.

Mixed in with this inconsistent terminology is scattered information on
cultural practices which can be assimilated to sexual exploitation of children, e.g., the Devadasi system in India, which is religio-cultural in essence and not commercial. In addition, there are those who would even go so far as to say that early marriages of children are merely another form of sexual exploitation.

Therefore, on the one hand, a clarification of concepts is urgently required to enable progress to be made in the understanding of these sex-related children's rights violations; and on the other hand, taboos about sex need to be broken down if violations are to be uncovered and the perpetrators brought to justice.

National legal inconsistencies

Another problem area is related to the age of the child and the child's consent. According to the United Nations Convention on the Rights of the Child (art. 34), no child under the age of 18 years shall be subjected to sexual abuse and exploitation. The age of consent for sexual relations in many countries is often lower than 18. This may mean that in some situations the customer is exempted from responsibility if the child consents to prostitution, even though the latter is under 18 years. It also may mean that law enforcement authorities would be reluctant to act, particularly if the child is considered old enough to consent, yet is under 18.\(^1\)

Inadequate program evaluation

Direct prevention programmes (work with children, families and communities), focusing on community dialogue and reflection on the sexual exploitation of children, have grown in number in recent years, but evaluation of such programmes remains difficult. Indirect prevention programmes (work with policemen, the judiciary, educators, employment sectors, etc.) are just beginning to be instituted. Many of these will have an impact on the implementation of all children's rights, not only those prohibiting the sale and sexual exploitation of children – although they have an obvious relevance for these child victims too. As for rehabilitation programmes, they are few in number worldwide and have uncertain levels of “success”.


In international law, there have been many efforts to curb the sale of persons and the exploitation of prostitution in general, but only recently has attention...