

THE ROLE AND INVOLVEMENT OF THE PRIVATE SECTOR

TABLE OF CONTENTS

Executive Summary 4

1. Introduction 5

- a. Private sector defined 5
 - i. Organized crime 5
 - ii. Businesses not directly involved in CSEC 6
- b. International norms and the private sector 7

2. Travel and Tourism Sub-Sector 9

- a. The trade 9
- b. Cross-border initiatives 10
- c. Regional and national programs 11
- d. New report from Groupe Développement 13

3. The Media Sub-Sector 13

- a. The industries 13
- b. Journalism 14
- c. Photography 15
- d. Television / Film 15
- e. Acting / Modelling 16
- f. Advertising 16

4. New Technologies Sub-Sector 17

- a. Global responses 17
- b. Filtering and rating systems 18
- c. Walled gardens 18
- d. Internet Service Providers 18
- e. Future of the Internet revolution 19

5. Lessons Learned 20

- a. Lessons learned 20
- b. International Cooperation 22

6. Conclusion 23

- a. Special Rapporteur's report 23
- b. Back to the Agenda for Action 24

EXECUTIVE SUMMARY

The five years following the first World Congress against Commercial Sexual Exploitation of Children (CSEC) have seen remarkable advancements in initiatives taken by the private sector to undermine CSEC. In this respect, the travel and tourism industries have taken a lead role. A number of high profile agreements and resolutions have been made at the international level. A particularly notable initiative was the recent adoption by the WTO General Assembly of a new *Global Code of Ethics for Tourism*. Many travel-related agencies, at international, regional and national levels, have also taken measures to help prevent CSEC, including the promulgation of codes of conduct, training programs for employees, and campaigns for public education through projects such as messaged luggage tags.

Achievements have also been reached by media-related businesses. Journalists have participated in meetings to draft ethical codes aimed at defining ways in which CSEC can be discussed and portrayed in effective and non-exploitative manners. The photography and film industries have also begun important discussions on how they can avoid contributing to CSEC. A number of private photo-processors have created internal policies mandating reporting of any questionable materials processed. Technological developments have been made allowing the filtering and rating of television programs to protect children from viewing harmful content, and parallel initiatives have been taken to protect child actors from the psychological harm of portraying CSEC. The benefits of television and film industries for promoting public awareness have been explored, notably by the ECPATs of the Pacific region.

The unregulated nature and explosive growth of the Internet has provided child exploiters the luxury of anonymity, creating different and new forms of CSEC. A number of meetings subsequent to the first World Congress have examined, specifically, the issue of on-line exploitation. These international gatherings have set out a number of guiding principles and suggestions as to how the Internet can best be controlled, and have examined the responsibilities of private sector Internet companies. Notable efforts have also been made in exploring ways to regulate the Internet, and in reinforcing cooperation between law enforcement officials and members of the “high-tech” industry. Technologies are being developed to filter and rate content so that individuals and Internet Service Providers (ISPs) can prevent harmful material from entering their spheres, and research is currently being conducted to verify the extent to which ISPs can be expected to participate in the elimination of child pornography from the Internet. As discussion continues, the world grows closer to an understanding of the limits of the industry and the potential for new forms of technologies to reduce harm.

In spite of many commendable efforts made by the private sector in the past five years, there remains a number of barriers to the full implementation of their commitments and obligations. Industries have begun to take remedial steps to eliminate CSEC, but it remains unclear as to how adequately information on these steps has been disseminated to ground-level workers within these industries. Codes of conduct and “best practice” guidelines appear to be among the most comprehensive and effective means of achieving these ends. However, because such codes are non-binding and too new to have adequately been tested, their ultimate feasibility is, as of yet, unclear. In spite of these continuing limitations, many businesses have taken the first and most significant measures in order to undermine the exploitation of their work in promoting CSEC. International cooperation has increased exponentially on the issue in the past few years, largely as a result of efforts by private sector partners including travel and tourism, media and the new technology industries. The five years following the first World Congress have witnessed many private sector advancements in helping to eliminate CSEC, and, perhaps more importantly, have seen greater commitments for future change.

1. Introduction

The private sector is involved in the commercial sexual exploitation of children (CSEC). Whether the exploitation is the result of commission or omission on its part may be subject to debate, however, the private sector's connection to this fundamental violation of children's rights is undeniable. Three sub-sectors within the realm of private enterprise have traditionally been associated with CSEC. The first sub-sector involves the travel and tourism industries. This category has taken the lead in the last few years in confronting the problem and developing innovative strategies to combat the phenomena.

A second sub-sector includes the media industries. These businesses are comprised of journalists, photographers, television and film producers, acting and modelling agencies, and advertising firms. Although some positive initiatives have been noted, there is consensus among child advocacy groups that not enough has been done to protect children from the harms associated with these trades. The third sub-sector represents the new technologies. This relatively young set of industries has received a considerable amount of attention since the first World Congress against Commercial Sexual Exploitation in Stockholm in 1996. No doubt the Internet has assisted child advocates in getting their positive message across in an effective and efficient manner, but it has also helped those who violate the rights of children accomplish their abuse cloaked in complete anonymity.

This paper will outline each of the three sub-sectors of the private industry noted above, identifying the individuals and groups involved and their efforts towards eliminating CSEC. Although the obstacles or concerns of each initiative will be reviewed, the focus will be on "best practices" and "lessons learned". The emphasis on positive outcomes demonstrates the good work that can be accomplished through acknowledgement of the problem coupled with determination to make a difference in the lives of children.

a. **Private sector defined**

For the purpose of this paper, the private sector has been primarily defined as for-profit industries. Although many of the principles outlined herein are relevant for other members of the private sector, including civil society organizations and non-profit agencies (whose efforts are no doubt instrumental in protecting children from CSEC), the *motivations* for participation differ greatly when profit incentives are involved.

While it may be true that profit-driven corporations share an interest in and a commitment to children's rights, this focus is incidental rather than central to their business activities. This fact distinguishes their work from their non-profit counterparts. Further, there is a very real risk with for-profit businesses that children's rights will be *subordinated* to profit incentives. For example, private industries may be interested in helping youth advance their future employability; If the expense of so doing is not recouped by the corporation then there may be temptation and pressure (i.e., by shareholders) to abandon such practices. This paper focuses on ways in which protections are compatible with profit making industries.

i. **Organized crime**

There is an alternative private sector that is deeply implicated in CSEC, and which, if eliminated, would lead to a dramatic decrease in the abuse of children. This is the world of organized crime. According to law enforcement, sexual exploitation of women and children is one of the fastest growing organized criminal activities around the globe, and follows in frequency only the trade in narcotics and weapons. Organized criminal syndicates are estimated to earn billions of dollars annually through, for example, trafficking in humans, management of brothels, and production of pornography.¹ Children are at particular risk of exploitation because these cartels are highly skilled in manipulation and deception. Lured through false promises of jobs, children and their parents are often tricked into, and trapped by, exploitative conditions.² Although the specific details of organized crime are manifested differently in various countries or regions, it is clear that the rights of all children are consistently being threatened by this "alternative" private sector.³

It is very difficult to speculate as to ways in which crime groups can become participants in efforts to undermine CSEC. Because of the illegal and illicit nature of their activities, it is not plausible to consider lobbying such organizations to solicit socially responsible business. Furthermore, because CSEC is often central, rather than incidental, to their core activities and the profits from such exploitation are high, any intervention is unlikely unless it comes with real threats of punishment. Moral or ethical appeals would not force accountability, nor would consumer pressure, as is often the case in the “legitimate” private sector. However, other industries can become actively involved in undermining organized crime as it pertains to CSEC. For example, security guards, hotel employees, transportation services (i.e., airlines, bus companies, shipping firms, etc.) can play very important roles in identifying suspicious situations. Recognizing that efforts to directly confront organized crime groups about their questionable activities would be done at great personal risk, these industries might be better suited to monitor and then report their findings to authorities.

The reporting of exploitation will only be successful if there are effective responses to the tips made by concerned corporate citizens. It is imperative that the international legal and judicial communities endorse tighter controls, greater accountability and harsher penalties for organized criminal activity. In light of this, a number of recent United Nations’ (UN) initiatives offer stronger protections against, and responses to, organized crime. The adoption by the UN General Assembly of a new international agreement enhances the focus of world governments on organized crime as it applies to the exploitation of children, and represents important steps to mandate stronger sanctions of such activity. The UN *Convention Against Transnational Organized Crime*⁴ and the accompanying *Protocol to Prevent, Suppress and Punish Trafficking in Persons*⁵ are the first legally binding UN instruments concerning such behaviours. Their adoption comes just a few months after the creation of an *Optional Protocol to the Convention on the Rights of the Child* enhancing protections from CSEC.⁶ All these measures are designed to strengthen international frameworks to undermine organized crime, and to aid in the protection of children from the many forms of exploitation that result from such activities.

ii. Businesses not directly involved in CSEC

Much of the discussion of the private sector in this paper highlights activities that should be taken by industries that are, or may be, implicated in CSEC. However, there are many private industries that have no apparent link to exploitation but could nevertheless play an important role in its elimination. For example, businesses that choose to offer young people in difficult circumstances realistic employment opportunities, with reasonable salaries and respectable working conditions will no doubt help prevent CSEC. Moreover, many industries can take active preventative measures such as coordinating institute job training programs for young people, particularly for those at risk of CSEC. Furthermore, as indicated in a recent report by the Special Rapporteur on the sale of children, child prostitution and child pornography, organizations could provide mentoring programs or ensure funding and scholarship opportunities for the education of young people⁷. Other measures that could easily be taken by the private sector are programs for employees about CSEC, actively condemning the exploitation of children. Zero-tolerance policies could be created and enforced by the high-tech industry regarding, for example, on-line exploitation or possession of electronic child pornography. It has been repeatedly noted that consumers are interested in corporate accountability and in the protection of children’s rights. Therefore, active protection and promotion of such rights may be represented as a means to *enhance* business.⁸ For example, the Special Rapporteur identified awareness raising regarding the possible monetary benefits of social responsibility within the corporate sector to be a successful initiative in promoting corporate accountability.⁹ There is also great potential for preventative work and for the establishment of “exiting” strategies to be implemented by the private sector. This potential is becoming increasingly realized internationally.¹⁰

The inter-governmental community can provide examples of programs that can be replicated within the private sector. UNICEF and UNAIDS have both developed important projects whereby children at risk are offered opportunities for training and subsequent employment. A number of employers such as hotels, health care facilities and fashion houses have participated in such initiatives. These

have been designed as preventative measures to enhance skills and optimism for opportunities outside the “sex industry” and as rehabilitative measures to build confidence and employability after a child has exited the “sex industry”.¹¹ One such Canadian initiative involved the construction of a restaurant as a training facility for individuals who were hoping to start a new life.¹²

Organizations that employ or recruit adults to work with children could commit to actively screen workers to ensure that there has been no history or incident of inappropriate conduct. Experts have developed mechanisms for identifying or profiling s, and for recognizing signs of possible abuse. Screening programs are particularly important for businesses such as summer camps, boarding schools and daycare facilities.¹³ There are plethora’s of other ways in which private sector industries that are in no way directly implicated in CSEC can still assist in its elimination.

A final group of businesses that may or may not be directly involved in CSEC activities are those associated with the “adult sex industry”. In this context, these actors are even more controversial than organized crime syndicates as many child advocates suggest that the very nature of the adult sex industry places youth at risk. Little has been written on the links between this industry and CSEC. Businesses that may have such a connection include publishers and producers of adult pornography, escort agencies, prostitution unions (where they are legal) and Internet sites containing graphic stories or images of adults engaged in sexual conduct. Although research is lacking, a recent case in the United States suggests there may indeed be a correlation. In 1999 a couple from Texas was arrested for distribution of child pornography over the Internet. The husband and wife admitted that they had hosted a portal for adult pornography Websites but denied allegations of providing access to child pornography. In fact, they claimed to have tipped off the FBI when they had come across such material on the Web. The couple claimed it was impossible for them to know for certain if all the models used on other peoples’ sites were of legal age. The judge found the couple guilty and sentenced the man to 1,335 years in prison and his wife to 14 years. The case is now on appeal.¹⁴

b. International norms and the private sector

There have been a number of recent developments at international law that undertake to strengthen linkages between corporate responsibility and the protection of children’s rights. Much of the basis for this framework is found in the *Universal Declaration of Human Rights* (UDHR).¹⁵ Notably, the preamble of this declaration states “every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights”.

The wide reaching ambit of responsibility outlined in the UDHR encompasses individual and corporate bodies as well as States, thus suggesting that private sector industries are seized with the obligation of such protection. Furthermore, article 30 indicates, “Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein”. Enumerated rights specifically include non-exploitation and access to education. Although this document is non-binding, its provisions are implemented in the *International Covenant on Economic, Social and Cultural Rights*,¹⁶ and the *International Covenant on Civil and Political Rights*.¹⁷

The *Convention on the Rights of the Child* (CRC) offers the most comprehensive, and the most widely accepted, protections for children’s rights. Articles 31 through 37 outline rights to education, leisure and development, and establish prohibitions upon various forms of abuse, including economic and sexual exploitation.¹⁸ Another significant development has been the adoption of the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*.¹⁹ There have also been a number of binding obligations promulgated by the International Labour Organization (ILO) which establish standards for employment conditions, including such issues relevant to children as minimum age²⁰ and protections against the worst forms of child labour.²¹

A number of non-binding multilateral declarations have also been developed to place checks upon the work of private sector industries, in particular those that are multinational in origin. Many of these

declarations include in their scope States, employers as well as employees. Perhaps most importantly, they recognize not only the need for private industries to respect rights, but that their position in society places a strong obligation to promote and enhance respect for human rights. An example of this is seen in the ILO *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*.²² Protections and obligations are also found in the *Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises*.²³ The introduction of the OECD guidelines notes:

[t]hrough international direct investment, such enterprises can bring substantial benefits to home and host countries by contributing to the efficient utilisation of capital, technology and human resources between countries and can thus fulfill an important role in the promotion of economic and social welfare. But the advances made by multinational enterprises in organizing their operations beyond the national framework may lead to abuse of concentrations of economic power and to conflicts with national policy objectives.

Further directives, such as the OECD *Principles of Corporate Governance*, require businesses to recognize the greater context in which they operate and thus contribute to the greater benefit of society.²⁴

The UN has recently undertaken an important new initiative, the “Global Compact”, which requests that businesses show good “global citizenship” in the nations in which they operate. The human rights section of the source document explains that businesses should support and respect the protection of internationally proclaimed human rights within their sphere of influence and ensure they are not complicit in human rights abuses.²⁵

Although the UN compact is voluntary, it turns the attention of such industries to human rights and represents an important development in ensuring both respect for, and promotion of, such rights. This dual objective has also been noted in other UN fora. A recent progress report by the UN High Commissioner for Human Rights (UNHCHR) listed a series of reasons why respect for human rights is important for the private industry.²⁶ Points noted include, *inter alia*: Compliance with both local and international laws; satisfying consumer concerns; promoting the rule of law; building community goodwill; keeping markets open; and increasing worker productivity and retention. Several accountability mechanisms have also been identified by the UN including Global Stakeholder Initiatives, which are designed to encompass industries such as rug-making and Case-Specific Stakeholder Initiatives, which are created to deal with individual cases of unacceptable practices, such as resource-exploitation in an identified region.²⁷

Other international programs may, in fact, be hindering global attempts to alleviate the foundations underlying CSEC, specifically in the poorest countries of the world. A threat to poverty eradication and therefore the complete elimination of CSEC may be found in Structural Adjustment Programs (SAPs). Under schemes designed by the International Monetary Fund and the World Bank, several countries in the Southern hemisphere (i.e., Asia, Latin America, Africa) have become burdened by insurmountable debt, and have lost autonomy due to the resulting power imbalance. Liberalized trade and an emphasis on privatization have led to drastic cutbacks in government social expenditures, currency devaluation and loss of employment. The aims of “integrating” developing countries into the “world trading order” has led to an ever-increasing chasm between wealth and poverty, particularly because Southern countries are forced to adjust to the standards of the North.²⁸ There has been little focus on long-term sustainability and poverty reduction. Governments are pressured to respond to creditors prior to the social conditions of their citizens. Organized criminal groups have thrived under such conditions. As poverty and inequality have repeatedly been cited as the leading cause of CSEC, SAPs may be an obstacle towards eliminating this form of human rights violation.

A number of independent reviews have found that SAPs have exacerbated international inequalities. All of these factors have particularly impacted women and children. Labour migration has disrupted families, loss of employment has increasingly forced women and children to work in informal sectors with highly exploitative conditions. The increasing inaccessibility of necessities such as electricity and food has required them to expand their workload through gathering wood and food.²⁹ Furthermore, forced privatization has resulted in economically strategic export and promotion of tourism, benefiting largely at the expense of children. The results of SAPs have made conditions ripe for

hyper-exploitative practices such as CSEC.³⁰

Without a serious rethinking of SAPs, it will be difficult to reverse the current trends that have led to a drastically increased feminization of poverty.³¹ The UN Commission on Human Rights has identified the need for a reconsideration of SAPs. In establishing the Open-Ended Working Group on SAPs and Economic, Social and Cultural Rights, a strong commitment has been made to address the need for debt relief and social investment.³² It has been asserted that debt relief and implementation of the ILO Convention on the Worst Forms of Child Labour and the CRC must be considered to be an “essential component of poverty eradication”. Only when such commitments are formalized and internationally implemented will efforts to permanently eliminate CSEC be met with success.

As the above points illustrate, there have been a number of developments in international law considering the role played by private industry in the protection of children’s rights. Although a number of the resulting documents are not binding, they do offer important guidelines of the possible role to be played by private sector in both protecting and promoting such rights. Clearly, CSEC falls within the ambit of all of these documents, and any involvement of children in the making or viewing of harmful material is prohibited by international law or by international policy guidelines. (For more information on the impact of international law in eliminating CSEC please see the theme paper drafted by Dr. Geraldine Van Bueren.)

2. Travel and Tourism Sub-Sector

Within the private sector the travel and tourism sub-sector has clearly taken the lead towards eliminating CSEC. At the first World Congress the travel and tourism industries were well represented and their delegates introduced several high profile agreements and resolutions. In the five years since, many new initiatives have been further developed. Despite this trend there is still concern among child advocacy groups and law enforcement agencies that not enough is being done by this group to monitor and report instances of child abuse.

a. The trade

The term “travel and tourism” has been widely used in discussions surrounding CSEC, yet no one definition outlines the entire scope of the trade. The sub-sector decisively includes travel agents, tour operators, airlines and hotels, but it may also involve travel wholesalers, excursion companies, bars and nightclubs, restaurants, bus companies, train carriers, local security officers, etc. While some of the industries are easier to identify than others, and therefore easier to control using traditional legal models, all individuals within the sub-sector have at minimum a moral obligation to protect children from possible harm caused by their services. As one research study explains, “the scope of the tourism industry does not limit itself to the participants in a business transaction...[it] affects a broad range of the population, socially and culturally. A myriad of issues and problems in the tourism industry can be tied to ethics or lack thereof”.³³

It must be remembered that the travel and tourism sub-sector is merely a large group of employees. One study suggests that one of every 16 workers worldwide is employed in the feeding, lodging, entertaining or transporting of guests.³⁴ As such, the individuals more than the businesses must play a role in helping eliminate the exploitation of children. Any response or measure developed by an organization or association is only effective if the people who work within the structure know about the programs and believe in their objectives. Often the travel and tourism industries take advantage of an uneducated work force by paying low wages and offering no benefits. Further, the seasonal aspect of tourism often results in lay-offs for many employees in a cyclical manner. The problem is compounded by the fact that locals often hold lower level jobs while management jobs are reserved for outsiders. These factors can result in low job satisfaction by the employees and frustration with “management”. In this case, the sub-sector must recognize that supporting the rights of their work

force may actually contribute to the protection of the rights of children with whom their employees come into contact.

b. Cross-border initiatives

The World Tourism Organization (WTO) is the only intergovernmental organization that serves as a global forum for tourism policy and issues. Its members include 138 countries and territories, as well as more than 350 affiliate members from the public and private sectors. WTO's mission is to promote and develop tourism as a significant means of fostering international peace and understanding, economic development and international trade. In October 1999, the WTO General Assembly adopted a new *Global Code of Ethics for Tourism*. Article 2, paragraph 3 of the documents outlines:

The exploitation of human beings in any form, particularly sexual, especially when applied to children, conflicts with the fundamental aims of tourism and is the negation of tourism, as such...it should be energetically combated...and penalised without concession by the national legislation of both the countries visited and the countries of the perpetrators.³⁵

Governments representing the countries that support the new *Global Code of Ethics* have agreed to pass stricter laws and controls over the private sector to ensure that children within their borders are protected from harm that can occur as a result of abetting or ignoring violations. Private members of the WTO who back the initiative have agreed to meet the demands of the code imposed on them and their particular industries.

In cooperation with ECPAT, and inter-governmental organizations such as UNICEF, Interpol, UNESCO and the ILO, the WTO has also launched Child Prostitution and Tourism Watch. The aims of the Watch program are to prevent, uncover, isolate and eradicate the exploitation of children in sex tourism. Thus far, the program has designed and implemented a logo campaign for use by businesses to demonstrate their commitment to eliminate CSEC. A Watch Website has also been mounted on-line.

Many international private sector "umbrella organizations" have developed charters and passed motions to control or regulate their members. The Universal Federation of Travel Agents' Associations (UFTAA) has developed a *Child and Travel Agents' Charter*. A unique feature of this document is the follow-up mechanism that requires its members to assist organizations that restore the dignity, physical and mental health of the victims of CSEC.³⁶ Similarly, the International Federation of Tour Operators (IFTO) has developed a *Code of Operation Against the Sexual Exploitation of Children*.³⁷ The Federation of International Youth Travel Organisations (FIYTO) has passed a resolution to combat Child Sex Tourism,³⁸ as has the International Federation of Women's Travel Organizations (IFWTO).³⁹

Travel agents and tour operators are not the only industries to hold meetings and pass motions related to CSEC. Immediately prior to the first World Congress, the International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF/UITA/IUL) adopted a Resolution on Prostitution Tourism⁴⁰ and following the Stockholm meeting the International Air Transportation Association (IATA) drafted a final Resolution Condemning Commercial Sexual Exploitation of Children.⁴¹ The International Hotel and Restaurant Association (IH&RA) adopted a resolution, as well, in which it "recommends that all members...consider measures to prevent the use of their premises for the commercial sexual exploitation of children" and "prevent ease of access to child prostitution or child pornography".⁴²

Although all charters and resolutions should be considered positive steps in the effort to combat CSEC they are mostly voluntary in nature. If a member chooses to ignore the resolution at worst it will be disassociated. The language is often drafted after intense negotiations with multiple partners, including both trade unions and management. As a result, many of the words chosen are not as forceful as they could be. For example, terms such as "encouraged" and "recommended" permeate the literature distributed by these international networks, rather than phrases such as "must" or

“required”. Further, these charters and resolutions can only target very precise forms of CSEC, such as those perpetrated by members of large organizations or networks. Finally, it is important to note that these documents are very difficult to monitor. This is discussed in greater detail below.

c. Regional and national programs

The international community has accomplished a great deal in educating regional and national groups about the issue of CSEC and offering them guidance as to how they can contribute to the fight. In turn, there have been many projects undertaken at the local level that have met with positive results.

A series of successful initiatives have been generated by European organizations. The Group of National Travel Agents and Tour Operators Association within the European Union (ECTAA) passed a Declaration Against Child Sex Tourism in which groups committed themselves to excluding “without delay” any member proven to be engaged in sex tourism.⁴³ In 1997 the Confederation of the National Associations of Hotels, Restaurants, Cafés and Similar Establishments (Hotrec), based in Brussels, voted positively on a Declaration against the Sexual Exploitation of Children⁴⁴. The Hotrec declaration is unusual as it states “regret” for the use of the term “child sex tourism”: “[The expression] is highly damaging to the image of the tourism industry. Such crimes occur because of child sex abusers and, unfortunately, they occur in all sorts of circumstances which are not related to tourism activities”.⁴⁵

National governments have also been instrumental in assisting or mandating private enterprises in the tourism industry to address the issue of CSEC. In 1999, the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions issued a Communication on the Implementation of Measures to Combat Child Sex Tourism. Apart from the practical interest of identifying concrete elements in response to the problem of CSEC, the main purpose of the Communication is to “provide a reference framework for Community action on combating child sex tourism”.⁴⁶ The Communication outlines many successful partnerships between European private companies and the non-profit sector, including a video campaign by Terre des Hommes and Lufthansa, and a Groupe Développement/ECPAT luggage tag initiative with European tour operators. The Department for International Development and the Foreign and Commonwealth Office of Britain have also undertaken several joint initiatives with local travel agents and travel training companies, as well as recommending the introduction of a tourism industry code of conduct.⁴⁷

The European Commission has conducted several important studies on regional measures taken to combat child sex tourism. In a report titled “Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee of the Region on the Implementation of Measures to Combat Child Sex Tourism”, the Commission provides the results of a survey it conducted on Europeans’ views on the phenomena of sex tourism. The report provides many statistical outcomes from the research it had undertaken, including the fact that 63% of Europeans think the problem is “widespread”. The report concludes that, “there is one obvious consequence [to these results], the need to step up efforts to find tangible responses to the concerns clearly expressed by European citizens regarding the perversion of tourism which child sex tourism represents”.⁴⁸ Organizations working in the EU have found this “Eurobarometer on child sex tourism” to be useful as a reference tool in various situations, such as negotiating with tour operators and other representatives of the travel and tourism industry for tighter regulation of their businesses.

Several countries have independently adopted national codes or programs for their travel and tourism industries, often sparked by the work of local ECPAT chapters. The most comprehensive code of conduct for tour operators was developed in 1998 by ECPAT Sweden. ECPAT Sweden had requested input from a number of organizations that would be affected by such a code. These included UFTAA, ECTAA, WTO, ECPAT national groups and Scandinavian tour operators. Following a collaborative process in finalizing the document, a number of “compliance contracts” were then signed with the travel industry. Such contracts represent 95 percent of the Swedish travel

market, and 75 percent of the Nordic market. In November 1999, Germany and Austria joined the coalition. In January 2001, Italy, the Netherlands and the United Kingdom also agreed to participate. Funding is provided by countries' respective governments and from the European Commission, and there is strong support for the view that financing should come from the tour operators, as well.

The Swedish document contains an in-depth review of the issues and connects the code with other instruments such as the CRC. Further, the document provides detailed descriptions of the code's six criteria: Establishment of an ethical policy regarding child sex tourism; training of personnel in the country of origin and the travel destination; clause in contracts with suppliers that provides a common repudiation of child sex; provision of information to travellers by means of catalogues, brochures, in-flight films, ticket slips, home pages, etc.; information to local key persons; and annual reporting on the implementation of the Code.⁴⁹ The document also provides for monitoring mechanisms to be implemented and conducted by independent bodies. This is a particularly important element outlining an accountability process that ensures there are strong incentives to adhere to the code. Initial implementation has been conducted in Thailand, Sri Lanka, India, Brazil, the Dominican Republic and Cuba, with ECPAT acting as the interim monitoring body. Meanwhile, an international steering committee on the Code of Conduct has been established to review the possibilities of global monitoring. The committee's constellation includes representatives from the WTO, IH&RA, Tourism Authority of Thailand, ECPAT and the tour operator industry. The tour operators who have adopted the Code of Conduct have agreed to produce an annual report on its implementation and to allow the report to be commented upon by steering committee members. An International Secretariat has now been established and is hosted by the WTO in Madrid, Spain.

Last year, a monitoring expert was commissioned by ECPAT Sweden. He produced a series of reports on the success of the code's implementation, and presented his final review at an international meeting on the code of conduct. At this gathering, there was wide representation of participants, including monitors, travel agents, tour operators and European ECPAT groups. Notably, his analysis reflects the fact that important training sessions have been conducted regarding CSEC, and tourism operators and destination managers were found to be quite knowledgeable about child sex tourism.⁵⁰ This process has been highly influential, and a number of other countries have expressed interest in joining the coalition.⁵¹ Furthermore, Scandinavian tour operators announced in March 2001 that they shall continue the implementation of the code of conduct in Gambia, Vietnam, Bulgaria, Bali and Kenya.⁵²

The industry code of conduct as promulgated by ECPAT Sweden has clearly brought many successes in helping to undermine CSEC. This format might not, however, prove to be effective in all regions. ECPAT Australia, for example, has noted that such codes of conduct would have a limited effect because child sex tourism involving Australians tends to occur outside the work of the mainstream tourism industry. However, a number of innovative efforts have been taken in the Pacific region, including the inclusion of a prohibitive clause in the Australian Federation of Travel Agents' code of ethics. Furthermore, the issue is covered by the national tourism curriculum, so that students are made aware of the issue. A new program, "Travel with Care", was launched whereby educational materials designed to combat child sex tourism are distributed by every travel industry. An additional innovative program is "Child Wise Tourism" working in travel *destinations*, helping to build capacities to prevent child sex tourism.⁵³ ECPAT Australia developed a training module and training materials for travel and tourism students, educators and tour leaders. In so doing, they worked closely with the Australian tour operator Intrepid. Local ECPAT chapters have developed other such initiatives. ECPAT Austria teamed with the Third World Tourism European Network (TEN) to help establish Respect. Respect promotes sustainability in tourism and educates the Austrian population on the negative impacts of travel. Working closely with local tour operators and hotels, ECPAT Italia has also passed a code of conduct for the Italian Tourism Industry.⁵⁴

As noted above with the cross-border initiatives, codes of conduct without monitoring mechanisms have many limitations. They are voluntary in nature and are often self-serving. However, the existence of codes of conduct can enhance pressures upon local governments to acknowledge abuses, and bolster domestic legislation.⁵⁵ This pressure could, too, extend beyond national borders,

strengthening mechanisms for enforcement of protections on an international scale.⁵⁶ The more optimistic supporters of codes of conduct have even suggested that, for the reasons provided above, the private sector could surpass governments in protecting fundamental rights,⁵⁷ and that such benchmarking could lead to a “race to the top” whereby private sector businesses begin competing with one another to have the “best” record for protecting their local children.⁵⁸ (For information on other NGO initiatives towards combating CSEC please see the theme paper by Dr. Jane Warburton.)

d. New report from Groupe Développement

A comprehensive report has just recently been completed and provides an overview of the state of the global campaign against child sex tourism. ECPAT International commissioned the report called “A Child Sex Tourism and Action Plan” in response to concerns that activities on the issue following the first World Congress have been inadequate. Worldwide surveys were conducted on child sex tourism, with the objective of using this information to develop a strategy to further promote its elimination. Analytical studies were conducted both on the outputs of the tourism industries, identifying “best practice models”, and on the implementation of non-government initiatives.

A number of needs are articulated in the report, including: Development of a methodology to quantify the volume of child sex tourists; design of a methodology to monitor child sex tourism arrests and convictions; design and circulation of best practices; creation of a support or assistance program for partners in Asia, Latin America and the Caribbean working to end sex tourism in their regions; and design of an information and training program in cooperation with the North American tourism industry. The report identifies sectors involved in child sex tourism and highlights some of the work that remains to be tackled. The report notes that children are procured for sex through various means.

Implicated industries and individuals include the Internet, hotel staff, taxi drivers, transport terminals, families, panderers, brothels and escort agencies, and sidewalk agents. It is further noted that CSEC takes place in many locales, including hotels, guest houses, holiday flats, parents’ homes, brothels and public places; Hotels however are the prime scene of CSEC, accounting for 93.3% of incidences. The report states that there is a division between formal and informal sectors in this area, and that further research is needed to distinguish between the two and identify the unique areas of each needing to be addressed.⁵⁹

The report draws together a number of important observations. Following the worldwide study, the authors were able to enumerate a number of effective actions against CSEC. In identifying strengths and shortcomings of these various initiatives, and recognizing gaps where no CSEC projects have been undertaken, the report identifies further areas to promote protections. The report concludes that, while a great deal of important work has been done, there is much remaining, particularly in the areas of education and training. Guidelines are proposed to enhance awareness, and the creation of an international database is recommended. Furthermore, it is concluded that a Tourism Desk be established within the ECPAT movement to “launch and coordinate new actions as well as to motivate national groups”. The report also recommends that organizations working against CSEC advance their understandings of, and participation in, technological developments.⁶⁰

3. The Media Sub-Sector

The media may convey stories about CSEC in compassionate and ethical ways, increasing public understanding and involvement. Alternatively, the media can perpetuate exploitation through the inappropriate portrayal of children.⁶¹ Several media industries have been criticized for sensationalizing child abuse. The Council of Europe has expressed concern that the media can “infiltrate the public with liberal and tolerant attitudes towards child pornography and prostitution”.⁶² The American Academy of Paediatrics recently released a report arguing that the media plays a highly influential role in providing youth with distorted impressions of sex and sexuality, rendering them

more vulnerable to exploitation.⁶³ The UNHCHR has recognized that, “media are the most powerful tool of mass communication nationally and internationally, and their potential to protect children from sexual abuse and exploitation should be explored thoroughly”.⁶⁴

a. The industries

At the first World Congress the media’s responsibilities for the protection of children from commercial sexual exploitation was widely discussed. There are many media-related industries in the private sector that have the potential to undermine CSEC and, as is often asserted, carry an ethical if not legal obligation to do so. In this context, the media industries are defined as the modes of communication that have an impact on private or public perceptions of the world. The International Federation of Journalists, in a comprehensive background paper prepared for the first World Congress, recognized the fact that the media controls and manipulates representations of reality: “The media industry is either a commercial undertaking which exists to produce profit....or it may be subject to political and state controls”.⁶⁵

The industries that play a prominent role in shaping perceptions pertaining to CSEC -- including journalism, photography, television, acting, modelling, and advertising -- are reviewed below. There is a great deal of overlap among these categories, particularly vis-à-vis public awareness initiatives. A number of joint programs have been developed and/or implemented since the first World Congress. Although many problem areas still remain, some relevant successes have occurred reinforcing the capacity of media industries to play leading roles in private sector projects aimed at eliminating CSEC. New technologies may also be defined as media; however, the rapid growth and evolution of the Internet and Web industries warrants an in-depth analysis in their own right and is therefore studied in another section of this paper.

b. Journalism

A reporting style that is insensitive to the complexities of CSEC can distort relevant issues, sensationalizing exploitation and undermining protective programs. One report on the subject asserted that, “the way the media portray children has a profound impact on society’s attitude to children and childhood, which also affects the way adults behave. Even the images children themselves see, especially of sex and violence, influence their expectation of their role in life”.⁶⁶ Journalism offers a forum for advertising CSEC. For example, many youth are confronted with “sex work” through print commercials and classified advertisements for escorts or modelling agencies recruiting “innocent” or “barely legal” teens. Newspapers and other print media must acknowledge this fact and undertake immediate initiatives to prevent their use towards the facilitation of CSEC. The industry itself has recognized that protective initiatives, such as codes of ethics, are not widely known by journalists, and at the Journalism 2000: Child Rights and the Media conference, held in 1998, journalists in many parts of the world admitted to effectively ignoring the problem of child exploitation.⁶⁷

The UN Human Rights Committee has acknowledged that “the press and other media have essential functions in promoting and protecting the fundamental rights of the child and in helping to make reality of the principles and standards of the CRC”.⁶⁸ Although the role played by journalists towards the elimination of CSEC may currently be inadequate, a number of positive steps have been taken since the first World Congress. The European Parliament, in implementing the European Strategy for Children, has committed to increase “public awareness of the social, environmental and technological challenges for children in their everyday lives”.⁶⁹ The International Federation of Journalists, as follow-up to the first World Congress, organized a meeting together with Press Wise, entitled Tourism and Child Abuse: The Challenges to Media and Industry. At that gathering, media acknowledged that they could be much more visible in improving protections for CSEC. One of the plenaries’ concluding observations was that, “media must....report fairly, honestly and accurately on the experience of childhood”.⁷⁰ Commitments have recently been made to develop guidelines for reporting on CSEC,

and enhance cooperation at all levels regarding programs designed to protect children. Recommendations include increased training, heightened professionalism, codes of conduct and broadening the debate of relevant issues.⁷¹

Finally, it is important to recognize the potential role media industries can play in promoting youth empowerment. Confidence and identity-building activities are fundamental in atoning youth to their potential and helping prevent their exploitation. Modern media culture has had an increasing influence on youth with regards to sexuality – in many cases, overshadowing traditional sources of such education. New programmes are being designed to approach such education in ways *compatible* with traditional worldviews. Journalists can promote sex education serving to address some important reproductive health issues, such as HIV/AIDS and pregnancy. Such campaigns have been manifested in comic books, magazines aimed at youth and in other popular culture media.⁷² Furthermore, it is widely recognized that ignorance of sex and sexuality can be very dangerous to youth as myths regarding contraception and sexuality lead youth to be highly vulnerable to CSEC.⁷³ For example, an innovative program in Nigeria bases its campaigns on the premise that, “only teenagers who know and value themselves, who are aware of options and who are skilled have the capacity to practise safer and responsible sex”.⁷⁴ There is increasing international consensus that mass media outlets, such as journalistic reporting, is uniquely situated to promote education and empowerment to help counteract CSEC because of its wide youth appeal.⁷⁵

c. Photography

Photography continues to play a prominent role in the child sex industry, and there are ways in which the private sector can help to alleviate the associated problems. The most widely acknowledged connection between photography and CSEC is in the modelling industry. The UN High Commissioner for Human Rights has acknowledged: “The use of teenage girls, some as young as 13, modelling adult fashions may create the impression that thin pre-pubescent bodies are the most sexually desirable”.⁷⁶ It has been further recognized that, “photographs of children in their underwear for mail order catalogues are an easily accessible source of material for paedophiles, and are commonly used as such”.⁷⁷ A further concern about photography is at the individual level with the processing of films from private citizens. Although the Internet has largely displaced the use of commercial photo processing in the development of pictures evidencing CSEC, there is still a concern that current levels of interventions at this stage may be inadequate.

Protection of children from harm in this industry is often undermined by protections for the privacy of the abuser. Such concerns have very recently been exemplified by a case in the United States where an employee at a photo-developing shop was fired for violating the store’s customer confidentiality policy in reporting photos depicting child abuse.⁷⁸ Private photography industries are avenues through which children are exploited, but they are well positioned to bring about positive change.

Photo processing shops can assist in intervention, where films containing evidence of CSEC are submitted for development. There have been some cases successfully brought to trial as a result of reporting by photo processors. Furthermore, a number of photo processing shops have promulgated mandatory measures for reporting of any questionable photographic images developed in the shop. For example, a large photo processing company in Canada has a policy requiring police reporting where employees find questionable material in clients’ films.⁷⁹ Although the case of the fired employee noted above may prove to be a disincentive for workers to report, the initial steps have been taken towards greater activism at the level of photo processing in the elimination of CSEC.

Recently there has been enhanced dialogue on the role that various photography industries could play to better protect children. Members of the British Association of Photographers have discussed useful guidelines for professional photography of children, including ways in which children may be photographically portrayed, protection of children while at the shoot, and education for parents regarding legitimacy of agencies.⁸⁰ Cases from North America and Europe have helped define the legal parameters of appropriate photography of children.⁸¹ However, there are many more protective

measures that could be taken. Just as other professionals who work with youth are subjected to background checks to ensure whether they have been implicated in exploitation, similar schemes could be devised for photographers. International databases of known abusers in the field could be developed to allow for police screening of those involved in photography.

d. Television / Film

There have been several concerns noted about the portrayal of children on television and film. First, there is the alarm related to the manner in which the sexual exploitation of children is represented on tape. Second, there is worry as to the impact that representing inappropriate images has on the child actors. A number of recent television shows and films have been widely criticized for failing to approach the issues underlying CSEC with adequate sensitivity. The UN has expressed concern that such representations, “[pose] the risk that audiences will become desensitised to the real horrors of paedophilia and child sex”.⁸²

As the weaknesses of television and film industries have been widely acknowledged, measures have been put into place to better protect children and to promote the elimination of CSEC. Programs and guidelines are being developed to assist child actors in coping with sensitive material, and a number of initiatives have been undertaken to guide directors in portraying the subject appropriately. Developments have been made in allowing the filtering and rating of television programs, as well, to protect children from viewing harmful material. In 1997, the European Parliament proposed requirements for broadcasters to implement complex screening systems. While this move was eventually deemed “premature”, measures were taken to investigate other possible methods for protection. As an intermediary compromise, warnings now precede any potentially damaging programs.

The television and film industry has been noted for its capacity to increase public awareness of CSEC. In 1999, ECPAT Australia, as part of a public awareness campaign, launched a number of television commercials portraying stories of children harmed by CSEC.⁸³ The organization has recruited filmmakers as useful resources for their campaign.⁸⁴ In 1999, Air France began a video campaign, informing passengers about strict laws in France and abroad that punish those who exploit children.⁸⁵ Many similar initiatives, and an exploration of other ways in which television and film can promote the elimination of CSEC, are currently under investigation.

e. Acting / Modelling

During the first World Congress concerns were voiced about the harm to children caused by acting and modelling realities. The UN recently reported on the impacts of child actors portraying scenes of sexual abuse, as well as the potential for such scenes to provide material to paedophiles.⁸⁶ Further attention has been placed on the representation of children, or child-like adults, as sexual objects in the modelling industry. As with television and film, the harm to children is threefold: The potential for damage involves the children used in production of the material; children as viewers of the material; and use of the material by paedophiles. A recent Australian case exemplified the danger to child actors when a sex offender began stalking a child whom he had seen in a television commercial.⁸⁷ It has been argued that acting and modelling agencies must be more sensitive to the implications of using and representing children in their productions.

There are many ways in which the industry can better protect children from the harm of CSEC while promoting public awareness of underlying issues. The Entertainment Industry Coalition has drafted a *Code of Ethical Conduct* for parents choosing talent or modelling agencies. Included in these guidelines are details about roles and responsibilities about agents. A chapter is dedicated for work with children, covering such issues as maximum permitted working hours, requirements to protect children from psychological trauma and mandating the engagement of therapists where there is a risk of damage.⁸⁸

f. Advertising

Concerns have been addressed about trends in the fashion industry portraying children in provocative poses. Many of the harms associated with the advertising industry are discussed above in reference to acting, television, modelling and film. There are, however, some notable challenges specific to the advertising industry. The portrayal of children in exploitative manners in conjunction with popular market products creates an additional layer of potential harm. Public attention was recently focussed on the issue with advertisements of Calvin Klein underwear featuring children in sexually suggestive positions. A similar jeans campaign involving teenage models was pulled in 1995 following public pressure.⁸⁹ It is imperative that companies and advertisers are mindful of potential harm in marketing their products through inappropriate advertising.

There have, however, been a number of positive developments using advertising as a way to undermine CSEC. A particularly groundbreaking innovation has been the collaboration between ECPAT New Zealand and Saatchie & Saatchie, a major advertising agency with offices around the world. Two advertisements are aired on New Zealand television, educating the public about CSEC. They contain the ECPAT logo, and provide a telephone number for raising funds to combat exploitation.⁹⁰ It is hoped that the other Saatchie & Saatchie offices around the world will follow the lead and provide similar services to ECPAT chapters and affiliates elsewhere. Many advertising companies recognize the value of preventing CSEC, and will offer advertising services free of charge.⁹¹ However, few firms have actually developed independent programs or projects nor have they approached non-profit organizations in their communities to offer their support.

4. New Technologies Sub-Sector

In the past decade the Internet has enjoyed an explosion of development, expanding faster than any regulatory scheme can be developed. As a result, its rule-free nature has offered child sex offenders the luxury of anonymity. Instantaneous transmission of information and images lessens the risk of intervention by law-enforcement officials and eliminates trans-border customs investigations. The Internet has done more, however, than just make existing methods of child abuse more convenient and risk-free. It has offered new and increasingly harmful methods for the violation of children. There are many ways in which the Internet is used for such exploitative purposes.⁹² The more commonly known uses are through the publication of pornographic images involving young people. In this manner it is widely recognized that children are doubly harmed. Children are abused in the production of the images (a.k.a. children “behind the screens”) and through visual assault when witnessing abuse on their computer monitors (a.k.a. children “in front of the screens”)⁹³.

Other forms of electronic child abuse may be less obvious. A practice often used by sex abusers is the publication of photos on the Web, to be viewed by millions.⁹⁴ The threat of publication of these photos alone is frequently a form of blackmail used by pedophiles.⁹⁵ The Internet has also facilitated the establishment of networks among abusers. It has allowed child sex offenders the opportunity to establish contact with children, under other auspices, to make arrangements to meet.⁹⁶ Like other forms of child pornography, the Internet generated material has allowed greater means for the “normalization” of sexual contact between adults and children⁹⁷ often used in the grooming process of pedophiles’ victims. (For more information on methods used by child sex offenders please see the theme paper by Professor Julia O’Connell Davidson.)

There has been a great increase in the number of Internet users, and many technological advances have been made in the five years following the first World Congress, expanding the ambit of harm to children. A recent study indicates that, “only one quarter of children’s Web sites post privacy policies and only 6 percent ask children to get their parents’ permission before sending in personal information.”⁹⁸ In spite of these continuing weaknesses, several positive developments have taken place in industry efforts to enhance protections from CSEC.

a. Global responses

A number of meetings subsequent to the first World Congress have examined, specifically, the issue of on-line exploitation. In January 1999, UNESCO sponsored the Expert Meeting on the Sexual Abuse of Children, Child Pornography and Pedophilia on the Internet, in Paris.⁹⁹ This conference was designed to bring together experts in all relevant fields – children’s rights advocates, government representatives, law enforcement agencies, Internet specialists -- in order to establish an international framework which could more effectively prevent the use of the Internet in the commission of offences against children, without limiting the free-flow of information and the growth of new technologies. These issues were examined again at a conference held in Vienna, Austria on Combating Child Pornography on the Internet.¹⁰⁰ The event represented an attempt to reinforce cooperation between law enforcement officials and members of the Internet industry. These international gatherings have set out a number of guiding principles and suggestions as to how the Internet can best be controlled, and have examined the responsibilities of private sector Internet companies. Some of the commonly proposed solutions are outlined below, along with the advantages and disadvantages of each.

b. Filtering and rating systems

Technologies are being developed that filter and rate content so that individuals and Internet Service Providers (ISPs) can prevent harmful material from entering their spheres. These systems are most useful in regulating legal but undesirable material. David Kerr, the Chief Executive of the Internet Watch Foundation in the United Kingdom, has suggested that, “most governments and much of the industry have accepted that this approach is the best hope for maintaining free speech on the Internet, whilst allowing consumers to choose what they do not wish to see”.¹⁰¹ Once perfected, this technology could help eliminate the *receipt* of such information, but does little to stop the creation and dissemination, to a willing recipient, of child pornography unless there is universal cooperation on the part of ISPs. Current rating systems are highly subjective, and therefore do not reflect an internationally recognized standard. Filtering systems in their present state have many weaknesses. The often-cited example is the fact that, by filtering out keywords, useful information pertaining to sex education or health is blocked. Moreover, offenders have found easy ways to circumvent this technology by deliberately misspelling terms.¹⁰² Although these methods do little to eliminate child pornography from the Internet, and therefore do little to protect children as subjects of exploitation, they are useful insofar as they provide a degree of protection from viewing harmful material.

c. Walled gardens

One of the most effective methods of preventing people from accessing harmful material on-line is found in “walled gardens”. Walled gardens are collections of Websites that have been pre-screened and pre-approved as being safe for children. Quite opposite to the practice of filtering, which grants access to all material unless stopped through keywords, walled gardens ban entry of any material that has not specifically been endorsed by trained professionals.¹⁰³ There are a number of advantages of a framework such as walled gardens, including the security that the screening has been done by “real life” individuals rather than a software package, and that they are extremely safe.

There have also been concerns raised about walled gardens. The “portals” require high maintenance as Websites and their addresses change frequently. Further, the sites that are approved will reflect the philosophies and priorities of the individuals screening the material. The risk of sites being slanted based upon a political or religious disposition exists. This danger is clearly exemplified in the approach by the Singapore government to all Internet material. In measures that drastically undermine on-line freedom of expression, Singapore prevents access to any information that may “undermine public morals, political stability, religious harmony”.¹⁰⁴ Highly subjective, these terms

could very easily bar material that effectively *prevents* CSEC. For example, education on sex and sexuality has been widely acknowledged to empower youth to prevent their exploitation but it is possible that such information would be caught as “undermining public morals”. (For more information on the use of walled gardens to protect children from CSEC please see the theme paper by John Carr.)

d. Internet Service Providers

Throughout the various meetings on the subject, it has been suggested that ISPs should be liable for the content made available through their servers. The vast amounts of material passing through their networks render it difficult if not impossible to monitor. Moreover, many countries have minimum *mens rea* (i.e., legal knowledge) requirements for such liability, and as such their actions would be ineffective if not unconstitutional. A recent case from Germany examines the potential liability of service providers. The local court of Munich held the managing director of an ISP liable for failing to adequately block pedophilia newsgroups. This decision was overturned in 1999 at the appellate level, as it was held that there was no technology at the time that could have even allowed for an effective block.¹⁰⁵ A more recent Canadian case, however, held operators of an electronic bulletin board containing child pornography to be legally responsible for the material. The latter case indicates that there may be new minimum obligations to at least inquire as to the content of material.¹⁰⁶ Another case from Germany makes an attempt to extend liability for Internet content beyond its own borders. The Federal Court of Justice recently indicated that German law applies to material that foreigners “put on a foreign server that is accessible to Internet users in Germany”. This decision could have a chilling effect for those attempting to post material considered to represent CSEC on servers outside domestic jurisdiction.¹⁰⁷

Research is currently being undertaken to verify the extent to which ISPs can be expected to participate in the elimination of child pornography from the Internet. It has been widely acknowledged that ISPs are well positioned to assist the fight because offenders need ISPs to access the Internet, and law enforcement officials need ISPs to trace offenders.¹⁰⁸ One possible compromise noted in the literature is to require ISPs to record and verify client data ensuring names provided are not false. This is offered as a more realistic alternative to requiring the onerous task of monitoring all information that flows through the ISPs’ servers. The ISPs could also be required to keep records of information that have passed through their servers for an agreed-upon minimum amount of time. Further, they could be required to select which Usenet groups to mount, rejecting those who explicitly indicate that the contents may include pornography.¹⁰⁹ The Australian Internet Association has recently established a code of conduct to begin laying a framework for such ethical practices.¹¹⁰

Encryption software provides a further challenge to law enforcement agencies attempting to investigate and prosecute child sex offenders. A recent multinational investigation concerning the world’s largest Internet ring illustrates the difficulties of such encryption programs. Upon the discovery and arrest of various members of the “Wonderland Club”, a ring collaborating in the fabrication and possession of nearly one million pornographic representations of children, authorities were unable to crack all the encryption codes to reveal evidence of the crimes.¹¹¹ The Soviet KGB allegedly developed the encryption programs that were used by members of the Wonderland Club. Investigators with the British National Crime Squad, US Customs and Interpol, working together, were unable to decode the software used both for Internet transmission and hard drive copies and was unable to secure all the evidence required to bring the case to trial.¹¹²

e. Future of the Internet revolution

Although the Internet is rapidly expanding, the private sector can play an essential role in helping to maintain the “integrity of the medium”. ISPs could require identification in order to subscribe, or the ISPs could then retain information about the subscriber’s account. (This may, however, require amendment of current privacy laws.¹¹³) Content rating and filtering systems must become more

highly developed and reliable so as to offer a greater degree of reliability.¹¹⁴ As outlined above, codes of conduct have their drawbacks but can nevertheless serve to offer guidance as to practices most appropriate in preventing the Internet from playing a predominant role in CSEC. As stated in the conclusions of the Vienna Conference on Combating Child Pornography on the Internet:

Child pornography on the Internet is a growing problem, and as more of the world comes online, it will continue to grow. It does not know or respect borders. The fight against it is facing particular technical and legal challenges, including fast technical innovations and changing patterns e.g. concerning places of origin and forms of exchange. The fight against this abuse cannot be done alone but only through strong international cooperation, among governments, particularly law enforcement agencies, but equally between States and the Internet industry, hotlines and non-governmental organizations. Therefore, one of the main outcomes of this conference is the forging of a strong international partnership among all different stakeholders in the fight against child pornography on the Internet.¹¹⁵

Encryption is an important and necessary Internet tool in a time of rapid and frequent transmission of information that must be secured. For example, details about criminal investigations, bank data and business transactions need to be under a shield of high-level security. Furthermore, without appropriate encryption tools, there is risk of “information theft” whereby work is appropriated by parties who would stand to gain from that information. However, encryption also poses a high burden where it impedes law enforcement and evidence gathering. A possible solution to challenges posed by encryption may be found in the model of “key-escrowed encryption”. This requires sellers of encryption to provide keys to the codes to trusted third parties (i.e., the police). Computer industries have strongly resisted this initiative, claiming that it would put them at a competitive disadvantage when compared to encryption-providers in other countries.¹¹⁶ As a result, the US Government recently decided to fund a new code-breaking unit rather than attempt to enforce distribution of the keys to those codes.¹¹⁷ Additional limitations to code distribution may be found in nations’ individual constitutional constraints. To furnish authorities with access to private material could violate any number of privacy protections. It is necessary, however, that the trend of protecting corporate interests and privacy interests of known abusers be reversed. Key-escrowed encryption appears to offer the most effective solution to enforcement of laws preventing CSEC.

4. Lessons Learned

A number of trends can be noted from the private sector’s responses to CSEC. Other initiatives have yet to come to fruition or have not been fully explored.

a. Codes of Conduct

Codes of conduct have emerged as a preferred means by which private industries can help protect children from exploitation. Under such a scheme, private sector businesses follow guiding principles designed to indicate corporate expectations in eliminating exploitation. There are many potential benefits to such instruments. Codes of conduct can build protective frameworks from the ground up. They can be used to identify holes in legislation, filling them with private obligations. They can help educate relevant parties of underlying issues of CSEC, detrimental impacts of their actions and their potential to participate in the elimination of CSEC. As noted above, there are many ways in which codes of conduct can be used by related private sector industries, for example, by tour operators, ISPs and journalists. In fact, codes of conduct seem to be the most unifying objective among the various private industries with a stake in the elimination of CSEC.

Although there are many potentially beneficial aspects to codes of conduct, weaknesses too must be identified in order to be circumvented when protecting children from harm. Examples of these obstacles and opportunities may be seen in a parallel objective, the use of internal codes of conduct

(i.e., those drafted by the corporations themselves) in efforts to undermine child labour.

The first challenge with codes of conduct is they are invariably voluntary and non-binding. They are “soft laws” which have no legislative force. Terms such as “might” or “should” permeate the documents indicating that there is no positive obligation placed upon the industry to incite change.

A second obstacle is that codes of conduct are often under-inclusive and self-serving. It can be noted from child labour studies that private sector industries resist adhering to externally drawn codes -- those promulgated by NGOs or other interest parties -- preferring to establish their own guidelines. Because these codes are drafted by the implementing entity, they tend to be designed explicitly to serve the interests of that entity.¹¹⁸ For example, early codes of conduct by apparel industries were widely criticized for failing to include such provisions as the right to organize into trade unions, although they were ostensibly based on domestic and international law.¹¹⁹

A third challenge is that compliance with such codes is often internally monitored, preventing public scrutiny of non-compliance. The sports giant Nike recently faced scrutiny about having its compliance with a code of conduct inadequately monitored in the face of child labour accusations.¹²⁰ Although the corporation advertises that the inspections have been independent, paid employees of Nike (who may have a financial interest in not uncovering abuses) have been involved with the reporting scheme.¹²¹ There is little commitment to the public that monitoring is being done, that monitors have requisite training and sensitivity, or that violations will not be covered up. Furthermore, because the corporation often pays the monitors directly, there is no assurance that they will try not to save money by simply neglecting to monitor.¹²²

A further concern is that codes of conduct are often not widely distributed, particularly to employees. A study by the US Department of Labor recently found that less than 50 per cent of multinational corporations promulgating codes of conduct regarding labour standards could provide inspectors with copies of the codes upon request.¹²³ This supports the view that the codes are designed for the benefit of the market audience rather than for individuals who are ostensibly to be protected by the codes.¹²⁴

A fifth obstacle is that these codes are often not obeyed. A recent study found that 80 percent of factories claiming to abide by US codes of conduct were in clear violation of these codes.¹²⁵

Finally, and perhaps most detrimentally, there are criticisms that codes of conduct could serve as a *disincentive* for countries to strengthen their own laws. For example, Southern NGOs have expressed a fear about the deleterious effects of child labour codes promulgated by industries working in their countries, explaining that such codes could serve to undermine the regulatory role of the state.¹²⁶ The NGOs are concerned that actions of the private sector, in adopting such codes, may be an attempt to replace legislation, to privatize law enforcement and thus to evade standards.¹²⁷ Furthermore, such codes could allow industries to justify working in countries with repressive regimes.

Many of these identified weaknesses could be attributed to the fact that codes of conduct designed to assist private industries in protecting children from harm are still in their infancy.¹²⁸ Mindful of the criticisms, and provided the codes are well drafted, implemented and adhered to, codes of conduct could serve to offer exemplary support to the movement to eliminate CSEC. A compromise may be to have other groups outside the business in question assist in drafting the language (i.e., multi-stakeholder codes).

One of the fundamental guarantees in the CRC is that youth should be able to participate in decisions affecting their lives. Furthermore, youth are often in the best position to determine what initiatives are needed and which programs would be helpful in undermining CSEC. Therefore, it is necessary that young people be given a strong voice in any efforts to combat CSEC. A particularly important area in which youth could participate is in the drafting of multi-stakeholder codes of conduct. Youth are acutely aware of the degree to which their rights are violated, and are well situated to identify creative and innovative strategies to prevent and remedy such violations.

Industry-specific multi-stakeholder codes, promulgated by governments, labour unions and NGOs,

rather than individual private entities, tend to be very detailed, mirroring closely provisions from international legal instruments. These codes deal with such issues as independent monitoring of compliance and penalties imposed for non-compliance. Because they are intended to apply to all the services working in particular industries, the codes aim to reduce the exploitation as a competitive measure. Some of the more well known multi-stakeholder codes of conduct include *The Ethical Trading Initiative* from the United Kingdom, *The Fair Trade Charter for Garments* from the Netherlands, *Homeworkers' Code of Practice* from Australia, and *The International Federation of Football Associations*.¹²⁹ Multi-stakeholder codes reflect international consensus on the need for tighter regulation, and offer comprehensive industry-specific proposals as to how this might be achieved. However, because these codes are voluntary, they require the participation of the private sector in order to be successful.

Consumers in the twenty-first century have begun to call for, and to insist upon, greater accountability of private industries in eliminating human rights abuses from their businesses. The Special Rapporteur on the sale of children, child prostitution and child pornography in a recent report alluded to increased responsiveness amongst the business community regarding the profitability of social responsibility.¹³⁰ This accountability is increasingly held to be one of positive duty. More than simply eliminating questionable practices from businesses, the sector is now expected to take remedial responsibility for the harm their actions have inflicted upon others. Consumer campaigns are increasingly widespread, as university students, workers, NGOs, union representatives and governments speak out against violations. For example, studies have shown that consumers are willing to not only boycott services whose reputations are tainted by allegations of child abuse, but also to pay more for services that were not provided through questionable practices.¹³¹ For example, a recent study found that 78 per cent of US consumers would avoid retailers known to carry products made in exploitative circumstances.¹³²

Codes of conduct, to be credible and to reflect international ideas about desirable working conditions, must be closely modeled upon international legal documents. Additionally, the codes should be drafted and implemented so as not to detract from other rights enumerated in these instruments. In cases of child labour, for example, the best interest of the child is considered when undertaking to end such economic exploitation. Multi-stakeholder codes are preferable to independent ones, because they establish standards for specific businesses and consider issues relevant to particular occupations. Inspectors who are completely independent from the industries in question must monitor compliance with standards. They should have experience and expertise in children's rights issues, and must speak the language of the employees. However, just as it has been accepted that bad practices are bad for business, good practices can enhance business. There appears, even, to be a *market* for businesses that promote themselves as protectors and promoters of rights.¹³³ There is a growing insistence that the private sector has a moral duty to promote, rather than just respect rights.¹³⁴ Once codes of conduct are uniform, are externally monitored, and recognize remedial responsibility of violators of human rights, then private entities can play an admirable role in the elimination of CSEC.

b. International cooperation

Clearly, the most effective way that the private sector could play a dominant role in the elimination of commercial sexual exploitation is through international cooperation. All of the sub-sectors outlined above -- travel and tourism, media, and those related to new technologies -- are inherently international in nature. Even where private sector industries are localized, important lessons may be learned from the successes and failures experienced by similar industries elsewhere. Cooperation must be two-tiered, that is, between related private sector industries in an international forum, and between the private sector and such organizations working to establish and advocate international standards. International events, such as the first World Congress, and industry-specific conferences, such as the WTO General Assembly, Press Wise meetings, and Combating Child Pornography on the Internet, have helped to lay the groundwork for the necessary and preferable steps to be taken by those working in the private sector. CSEC is a problem of international dimensions. It has been facilitated and exacerbated by rapid travel and growing disparity between developed and developing

countries and increased globalization, combined with inaccurate or insensitive portrayal of CSEC by the media, and instantaneous transmission of information and facilitation of networks as offered by new technologies.

The many levels in which private sector industries are implicated in CSEC indicate that businesses and corporations must play a leadership role in working towards its elimination. This onerous burden requires international cooperation among all private sector industries. The initial steps have been taken, but there is still much work to be done. International cooperation must also take place at a number of other levels, with the private sector being just one constituent component. UNICEF has recently asserted the view that multinational cooperation is the *only* way that children can effectively be protected:

The leadership called for in the next millennium extends beyond traditional sectors and governmental structures, to engage all those who share a concern for human progress – people’s movements, community-based organizations, youth movements, women’s groups, professional networks, artists and intellectuals, the mass media. It is a global leadership that will work bottom-up as well as top-down, involving Heads of State, leaders in the political, business, academic and religious communities.¹³⁵

The private sector successes in helping combat CSEC have occurred because of cooperation on many levels. International alliances have led to the success of the ECPAT International network, the success of transborder law enforcement initiatives, and the success of labeling and codes of conduct campaigns. Many groups interested in promoting the protection of children now recognize the protective opportunities offered by trans-sector alliances. This has notably been exemplified in the success of civil society-tourism industry cooperation. Because CSEC crosses sectors as well as borders, and because initiatives can only benefit from the cooperation of a large number of sectors, such liaisons must be supported and enhanced. There is a great deal of room for further partnerships between and among private sector industries and civil society. For example, the Internet industry (i.e., ISPs, software manufacturers, etc.) could more closely liaise with law enforcement. Media industries could actively consult police authorities to ascertain recommended “best practices” in the protection of children. Tourism industries could strengthen their alliances with civil society. As prospects are limitless, further research into effective alliances must be conducted.

6. Conclusion

The private sector has been implicated in the commercial sexual exploitation of children. This study has attempted to highlight which private sector sub-sectors are involved in the crime and which industries are helping to combat or, in some cases, contribute to CSEC. The focus has been on travel and tourism, the media and the emerging field of new technologies. Reference was also made to businesses that have not yet immersed themselves in this work, but have the potential to assist in its prevention. Although each group has, at minimum, acknowledged their role in CSEC activities, everyone involved can no doubt do more to create, promote and implement projects that would further advance the fight to end this fundamental human rights violation.

a. Special Rapporteur’s report

Ms. Ofelia Calcetas-Santos, former Special Rapporteur on the sale of children, child prostitution and child pornography, recently completed a report on the role of the private sector as it pertains to her mandate of combating CSEC.¹³⁶ Following an extensive review of the various forms of private sector involvement and after conducting an in-depth analysis of the potential of the sector for amelioration, the Special Rapporteur highlighted several important points.

Drawing on information provided by various NGOs and reflecting upon international legal

obligations, the Special Rapporteur concluded that there has been a great deal of complicity, on the part of private sector industries, in serious human rights violations including CSEC. She suggests, however, that the private sector industries can reduce this support in ways that are not incompatible with their profit-driven motivations. Moreover, she identifies various international legal obligations mandating both positive engagement and prevention of abuse in nations of operations. A number of pressing areas are identified for demonstrating both irresponsible corporate practices as well as watersheds for positive initiatives. Such groups include the child labour movement; the media; transport and tourism; and business and the community. Each of these sectors is recognized as having participated in harmful activities, such as factories requiring children to work in hazardous conditions or exploitative representations of CSEC. However, positive initiatives taken by these actors include the formation of alliances, public education campaigns, corporate sensitization, preventative initiatives and vocational training.

A number of particularly effective initiatives are identified in the Special Rapporteur's report. Examples includes, *inter alia*:

- Companies providing on-site day care facilities so that working mothers can have their children close at hand;
- Local programming with the main goal being to benefit children, for example by providing lights around parks in which children can play safely in the evenings;
- Providing scholarships or apprenticeship programmes for out-of-school children;
- Raising awareness amongst business partners that being socially responsible is good for business;
- Where employees are sent on business trips, companies taking steps to deter activities which may involve sexual exploitation of children; and
- Ensuring that employed children (any individual under the age of 18) are not at risk of sexual exploitation by their supervisors.¹³⁷

Such initiatives enable private sector industries to contribute to the elimination of CSEC in ways compatible with both ethical considerations and profit motivations.

b. Back to the Agenda for Action

At the first World Congress on the Commercial Sexual Exploitation of Children in Stockholm, Sweden, representatives of 122 nations adopted the Stockholm Declaration and Agenda for Action against the Commercial Sexual Exploitation of Children. This Declaration reflected a promise, to the world's children, to take active measures to eliminate CSEC. In the years following this commitment, a number of advancements have been made. These are documented in the *Fourth Report on the Implementation of the Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children*.¹³⁸ To date, 124 states have formally recognized the Declaration. In addition to highlighting international legal developments aimed at strengthening protections from CSEC, the Fourth Report compiles regional and national developments and challenges on the following categories: National plans; prevention; protection and recovery; and rehabilitation and reintegration. The results of this report suggest that political, social and economic factors have hampered protective initiatives in a number of nations. Inadequacies in law enforcement, both internationally and internally, are identified as one of the greatest barriers to the elimination of CSEC. A second major barrier is the lack of viable alternatives for sustenance. Finally, inadequacies in services for recovery, rehabilitation and reintegration make it extremely difficult to permanently eschew CSEC.

In spite of these challenges, the most significant advancement in the elimination of CSEC has already been made. International awareness about the extent of the problem of CSEC, and an understanding of underlying causes of abuse, have grown radically. While this raises concerns that CSEC has been driven underground and thus more difficult to identify and counteract, it also means that preventative measures can develop and proliferate. This has begun to come to fruition, as several countries have

developed national plans and strengthened legislation to punish CSEC.

¹ For more details, see L. DeLong, “Smuggled into Hell: Poor Protection for Victims of the Sex Trade” (2000) 7:2-3 *Human Rights Tribune* 44.

² W. Zaliski, “Russian Organized Crime, Trafficking in Women, and Government’s Response” PMC International. Available online at: <<http://www.monmouth.com/~wplz/Index1.htm>>.

³ Much evidence exists of organized criminal gangs involved in CSEC. For various analyses of the existence and impact of this industry, see the following: J. Nikolov, “Crime and Corruption after Communism: Organized Crime in Bulgaria” (1997) 6:4 *East European Constitutional Law Review*. Available online at: <<http://www.law.nyu.edu/eecr/vol6num4/feature/organizedcrime.html>>.

See also: Press Release: Interpol, “Organized Crime and International Terrorism” (1998) 472-473 *International Criminal Police Review*. Available online at: www.interpol.int/Public/Publications/ICPR/ICPR472_8.asp.

⁴ UN Doc. A/55/383. Available online at: <<http://www.undcp.org/palermo/theconvention.html>>

⁵ UN Doc. A/55/383. For further details, see: <http://www.undcp.org/trafficking_protocol.html>.

⁶ UN Doc. A/RES/54/263. Available online at: <http://www.unhchr.ch/html/menu2/dopchild.htm>.

⁷ UNHCHR, 57th Sess., Report of the Special Rapporteur on the sale of children, child prostitution and child pornography. UN Doc. E/CN.4/2001/78.

⁸ The World Business Council for Sustainable Development has noted the importance, for continued profitability, of respect for human rights. For more information, see: <<http://www.wbcsd.ch/corp1.htm>>. For general information about consumer demands for corporate accountability, see: <<http://www.corpwatch.org/>>.

⁹ UNHCHR, 57th Sess., Report of the Special Rapporteur on the sale of children, child prostitution and child pornography. UN Doc. E/CN.4/2001/78.

¹⁰ See, for example, the report from a Canadian provincial project aiming to ameliorate conditions for children generally. The introduction indicates that, “[b]usinesses....have a role to play in helping to promote healthy children and youth”. *The Alberta Children’s Initiative (ACI)* is available online at: <http://www.acs.gov.ab.ca/pdf/ab_child_initiative.pdf>.

¹¹ UNAIDS *Best Practice Case Study: Reducing Girls’ Vulnerability to HIV/AIDS: The Thai Approach* (1999). Available online at: <<http://www.unaids.org/publications/documents/children/young/reducingcse.pdf>>.

¹² Department of Justice Canada (1998), *Report and Recommendations in respect of Legislation, Policy and Practice Concerning Prostitution-Related Activities Part III*. Available online at: <<http://canada.justice.gc.ca/en/news/nr/1998/part3/html>>.

¹³ For an overview of such screening programs, as designed by a mental health professional and consultant, see: <<http://www.afn.org/~monica/org.html>>.

¹⁴ A. Tresniowski, C. Coats, B. Stewart, A. Lang and J.T. Foster. “Caught in the Web,” in *People Magazine* at 199.

¹⁵ UNGA Res. 217 A (III) of 10 December 1948.

¹⁶ UNGA Res. 2200A (XXI) of 16 December 1966.

¹⁷ UNGA Res. 2200A (XXI) of 16 December 1966.

¹⁸ *Convention on the Rights of the Child* was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. Available online at: <<http://www.unhchr.ch/html/menu3/b/k2crc.htm>>.

¹⁹ UN Doc. A/RES/54/263.

²⁰ See, for example, International Labour Convention (No. 139) Concerning Minimum Age for Admission to Employment, entered into force 19 June 1976.

²¹ See, for example, International Labour Convention (No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

²² (1977), 17 I. L. M. 422, para. 6 (1978).

-
- ²³ 15 I. L. M. 9 (1976).
- ²⁴ Available online at: <<http://www1.umn.edu/humanrts/links/oecdbusinessguidelines.html>>.
- ²⁵ Details and documents on the UN Global Compact are available online at: <<http://www.unglobalcompact.org/>>.
- ²⁶ See: UN High Commissioner for Human Rights: *Business and Human Rights: A Progress Report*. Available online at: <<http://www.unhchr.ch/business.htm>>.
- ²⁷ See: UN High Commissioner for Human Rights: *Business and Human Rights: A Progress Report*. Available online at: <<http://www.unhchr.ch/business.htm>>.
- ²⁸ “Structural Adjustment Programme”, *Addis Tribune* (Addis Ababa) (5 November 1999). Available online at: <<http://allafrica.com/stories/199911050086.html>>.
- ²⁹ “Citizens Challenge to Structural Adjustment: A Summary of Civil-Society Perspectives from the Opening National Fora of SAPRI” *Social Watch*, February (1999). Available online at: <<http://www.saprin.org/SocWatch1999.htm>>.
- ³⁰ V. Prasad, “Calloused Consciences: The Limited Challenge to Child Labour”. *Dollars and Sense Magazine*, Sept-Oct 1999.
- ³¹ D. Tsikata, “Effects of structural adjustment on women and the poor”. *Third World Network*. Available online at: <<http://www.twinside.org.sg/title/adjus-cn.htm>>.
- ³² Structural Adjustment Programmes and Foreign Debt Commission on Human Rights Report of the Special Rapporteur and of the Independent Expert from *For the Record 2000* (HRI, 2001). Available online at: <<http://www.hri.ca/fortherecord2000/vol17sap.htm>>. See also the following UN Documents: 2000 Report of the Special Rapporteur: UN Doc E/CN.4/2000/51; The Commission on Human Rights: Effects of Structural Adjustment Policies and Foreign Debt on the Full Enjoyment of All Human Rights, Particularly Economic, Social and Cultural Rights. UN Doc. Gen. E/CN.4/RES/2000/82.
- ³³ D. Payne and F. Dimanche, “Towards a code of conduct of the tourism industry: An ethics model” (1996) 15:9 *Journal of Business Ethics* 3.
- ³⁴ D. Payne and F. Dimanche, “Towards a code of conduct of the tourism industry: An ethics model” (1996) 15:9 *Journal of Business Ethics* 2.
- ³⁵ The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ³⁶ Universal Federation of Travel Agents Associations, *Child and Travel Agent’s Charter*, s.3. See: The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ³⁷ International Federation of Tour Operators, *Code of Conduct Against the Sexual Exploitation of Children*. See: The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ³⁸ Federation of International Youth Travel Organisations (FIYTO), *Resolution by FIYTO to Combat Child Sex Tourism*. See also The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ³⁹ International Federation of Women’s Travel Organizations (IFWTO), *Resolution Against Sex Tourism*. See also The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ⁴⁰ International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF/UITA/IUL), *Resolution on Prostituted Tourism*. See: The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ⁴¹ International Air Transport Association (IATA), *Final Resolution Condemning Commercial Sexual Exploitation of Children*. See: The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.

-
- ⁴² International Hotel and Restaurant Association, *Resolution on Child Sex Tourism*.
- ⁴³ Group of National Travel Agents and Tour Operators Association within the European Union, *ECTAA Declaration Against Child Sex Tourism*. See also: The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ⁴⁴ Confederation of the National Association of Hotels, Restaurants, Cafés and Similar Establishments (Hotrec), *Declaration against the Sexual Exploitation of Children*. See: The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ⁴⁵ Confederation of the National Association of Hotels, Restaurants, Cafés and Similar Establishments (Hotrec), *Declaration against the Sexual Exploitation of Children*. See: The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ⁴⁶ Commission on the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, *Communication on the Implementation of Measures to Combat Child Sex Tourism*. See: The World Tourism Organization, *Global Code of Ethics for Tourism*. Available online at: <<http://www.world-tourism.org/omt/sextorui/wto-a.htm>>.
- ⁴⁷ ASEM Resource Centre, Child Welfare Initiative, “Protecting Our Children Together.” Available online at: <<http://www.asem.org/Documents/UnitedKingdom/Protecting/Protecting4.htm>>.
- ⁴⁸ European Commission. *Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Region on the Implementation of Measures to Combat Child Sex Tourism*. Com (1999) 269 final, 26.05.1999 at 5.
- ⁴⁹ N. Johansson, *ECPAT Sweden’s Certified Code of Conduct Against Child Sex Tourism for Tour Operators* (Stockholm: ECPAT Sweden, 1999).
- ⁵⁰ See, for example, “Follow-up of the implementation of the Certified Code of Conduct for tour operators against child sex tourism (CCC) in the Dominican Republic” on file with ECPAT Sweden. See also, “Follow-up of the implementation of the Certified Code of Conduct for tour operators against child sex tourism (CCC) in Phuket, Thailand” (March 16-17, 2000). On file with ECPAT Sweden.
- ⁵¹ This information was graciously provided by Helena Karlén, Executive Director of ECPAT Sweden.
- ⁵² This information was graciously provided by Helena Karlén, Executive Director of ECPAT Sweden.
- ⁵³ This information was graciously provided by Bernadette McMenamin, Executive Director of ECPAT Australia.
- ⁵⁴ ECPAT Italia, *Code of Conduct for the Italian Tourism Industry*. Available online at: <<http://www.ecpat.it/cdceng.htm>>.
- ⁵⁵ R. Liubicic, “Corporate Codes of Conduct and Product Labeling Schemes: The Limits and Possibilities of Promoting International Labor Rights Through Private Initiatives” (1998) 30 *Law and Policy International Business* 111 at 153.
- ⁵⁶ B. Jeffcott and L. Yanz, “Codes of Conduct: The Debates” ETAG Discussion Paper 1, February 2000. Available online at: <<http://www.web.net/~msn/>>.
- ⁵⁷ L. Baltazar, “Government Sanctions and Private Initiatives: Striking a New Balance for U.S. Enforcement of Internationally-Recognized Workers’ Rights,” (1998) 29 *Columbia Human Rights Law Review* 687 at 692.
- ⁵⁸ R. Liubicic, “Corporate Codes of Conduct and Product Labeling Schemes: The Limits and Possibilities of Promoting International Labor Rights Through Private Initiatives” (1998) 30 *Law and Policy International Business* 111 at 133.
- ⁵⁹ Groupe Développement Report at 64. The report is an internal ECPAT International document, however a synthesis report titled, « Child Sex Tourism Action Survey » is available to the public.
- ⁶⁰ Groupe Développement Report at 125. The report is an internal ECPAT International document, however a synthesis report titled, « Child Sex Tourism Action Survey » is available to the public.
- ⁶¹ K. Holman and A. White, International Federation of Journalists, “Prime Time for Children: Media, Ethics and Reporting of Commercial Sexual Exploitation” (Background Paper for the World Congress on Commercial Sexual Exploitation of Children, August 27-31 1996, Stockholm) at 2-3. Available online at:

<<http://yesunet.org/nagcs/p/media.htm>>.

⁶² K. Holman and A. White, International Federation of Journalists, “Prime Time for Children: Media, Ethics and Reporting of Commercial Sexual Exploitation” (Background Paper for the World Congress on Commercial Sexual Exploitation of Children, August 27-31 1996, Stockholm), at 2-3. Available online at: <<http://yesunet.org/nagcs/p/media.htm>>.

⁶³ M.E. Bar-On *et al.*, “Sexuality, Contraception, and the Media” (2001) 107:1 *American Academy of Pediatrics: Committee on Public Education* 191. Available online at: <<http://www.aap.org/policy/re0038.html>>.

⁶³ UNHCHR, Fifty-fourth session, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, E/CN.4/1998/101 at paragraph 39.

⁶⁴ K. Holman and A. White, International Federation of Journalists, “Prime Time for Children: Media, Ethics and Reporting of Commercial Sexual Exploitation” (Background Paper for the World Congress on Commercial Sexual Exploitation of Children, August 27-31 1996, Stockholm), at 2-3. Available online at: <<http://yesunet.org/nagcs/p/media.htm>>.

⁶⁵ Tourism and Child Abuse: The Challenges to Media and Industry. (Background paper for the conference held September 29-October 1, 2000, Brussels.) Available online at: <<http://www.ifj.org/working/issues/children/sextourism.html>>.

⁶⁶ Journalism 2000: Child Rights and the Media, Phase II of the Child Rights and the Media project. (Report from the conference held on May 2, 1998, Recife Brazil.) Available online at: <<http://www.ifj.org/working/issues/children/recife.html>>.

⁶⁷ UNHCHR, Fifty-fourth session, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, E/CN.4/1998/101 at paragraph 39.

⁶⁸ European Parliamentary Assembly, European Strategy for Children - Recommendation 1286 (1996) of the Parliamentary Assembly, 652nd meeting, 15 December 1998. CM/Del/Dec(96)557/3.1, 572/10.3, (97)601/6.1, 629/6.1, CM(96)91, (97)135, (98)68final, Recommendation 1286 (1996), GR-SOC/GR-J(98)1 and 2. Available online at: <<http://www.cm.coe.int/dec/1998/652/64.htm>>.

⁶⁹ Tourism and Child Abuse: The Challenges to Media and Industry, (Background paper for the conference held September 29 - October 1, 2000, Brussels.) Available online at: <<http://www.ifj.org/working/issues/children/sextourism.html>>.

⁷⁰ Tourism and Child Abuse: The Challenges to Media and Industry. (Background paper for the conference held September 29 - October 1, 2000, Brussels.) Available online at: <<http://www.ifj.org/working/issues/children/sextourism.html>>.

⁷¹ For further details, see Youth and Population Momentum, International Planned Parenthood Federation. Available online at: <<http://www.ippf.org/resource/6billion/youth.htm>>.

⁷² For further details, see Cairo +5: Preparatory Committee, International Planned Parenthood Federation. Available online at: <<http://www.ippf.org/cairo/prepcom/>>.

⁷³ “Nigeria”, Sexual Health Exchange, 1998 No. 4. Available online at: <http://www.kit.nl/information_services/exchange_content/html/1998_4_nigeria.htm>.

⁷⁴ Communications Consortium Media Center, Global Population Media Analysis. Available online at: <<http://www.cnie.org/pop/ccmc/2000march31.htm>>.

⁷⁵ UNHCHR, Fifty-fourth session, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, E/CN.4/1998/101 at paragraph 39.

⁷⁶ UNHCHR, Fifty-fourth session, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, E/CN.4/1998/101 at paragraph 39.

⁷⁷ Vancouver Sun (19 January 2001) A12.

⁷⁸ Black’s Photography Inc. is one of such corporations requiring the reporting of questionable material.

⁷⁹ UNHCHR, Fifty-fourth session, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, E/CN.4/1998/101 at paragraph 39.

⁸⁰ For further details, see *The Canadian Component of the Protection Project: A socio-legal analysis of international*

jurisprudence on the commercial sexual exploitation of women and children (Ottawa: HRI, 2000).

⁸¹ UNHCHR, Fifty-fourth session, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, E/CN.4/1998/101 at paragraph 39.

⁸² For further details, see ECPAT newsletter from November 1999. Available online at: <<http://www.ecpat.net/NewsNov99/epup.htm>>.

⁸³ For further details, see ECPAT newsletter from November 1999. Available online are: <<http://www.ecpat.net/NewsNov99/epup.htm>>.

⁸⁴ For further details, see ECPAT newsletter from May 1999. Available online at: <<http://www.ecpat.net/NewsMay99/page4.htm>>.

⁸⁵ UNHCHR, Fifty-fourth session, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, E/CN.4/1998/101 at paragraph 39.

⁸⁶ For further details, see *The Canadian Component of the Protection Project: A socio-legal analysis of international jurisprudence on the commercial sexual exploitation of women and children* (Ottawa: HRI, 2000).

⁸⁷ Entertainment Industry Coalition: Code of Ethical Conduct for Talent and Background Agents, passed at the 12 May 1997 meeting of the Coalition.

⁸⁸ For more information about criticisms of advertising vis-à-vis CSEC, see <eurochild.gla.ac.uk/Documents/UN/Sexual_Exploitation/SaleOfChildren/A-52-482.htm>.

⁸⁹ For further details, see: <<http://www.ecpat.net/ecpat1/network/new.htm>>.

⁹⁰ This information was graciously provided by Helena Karlén, Executive Director of ECPAT Sweden.

⁹¹ Many governmental and non-governmental organizations have reported upon the various ways in which the Internet is used by paedophiles. For a comprehensive overview of these points, see: J.L. Murray and D.M. Skooy, *Innocence Exploited: Child Pornography in the Electronic Age*, Canadian Police College/Community, Contract and Aboriginal Policing Services Directorate, Royal Canadian Mounted Police (University of Winnipeg: 1998).

⁹² For a general discussion on children's rights "behind the screens" and "in front of the screens" see M. E. Hecht and R. Neufeld, "The Internet and International Children's Rights" in *Human Rights and the Internet*, S. Hick, E. F. Halpin and E. Hoskins, eds. (London: Macmillan Press Ltd., 2000).

⁹³ UNHCHR, 54th Sess., UN Doc. E/EC.4/1998/101. The Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos, recounts the tragedy of a the suicide of a child from Austria upon discovery that evidence of his abuse was posted on the Internet. Available online at: <<http://www.unhchr.ch/html/menu4/chhrep/98chr101.htm>>.

⁹⁴ Many governmental and non-governmental organizations have reported upon the various ways in which the Internet is used by paedophiles. For a comprehensive overview of these points, see J.L. Murray and D. M. Skooy, *Innocence Exploited: Child Pornography in the Electronic Age*, Canadian Police College / Community, Contract and Aboriginal Policing Services Directorate, Royal Canadian Mounted Police (University of Winnipeg: 1998).

⁹⁶ J. Green, "Closing the Net" *The Times Magazine* (22 May 1999) 22.

⁹⁷ S. Friel, "Porn by any other name?" (1997) 1:32 *Valparaiso University Law Review* 207.

⁹⁸ J. Clausing, "Study Says Most Children's Web Sites Are Lax on Privacy" *The New York Times* (20 July 1999) B10. Available online at: <<http://www.nytimes.com/library/tech/99/07/cyber/articles/20privacy-day.html>>.

⁹⁹ Documents from the Expert Meeting on Sexual Abuse of Children, Child Pornography and on the Internet: an International Challenge. Available online at: <http://www.unesco.org/webworld/child_screen/conf_index.html>.

¹⁰⁰ Documents from Combating Child Pornography on the Internet. Available online at: <<http://www.stop-childpornog.at>>.

¹⁰¹ D. Kerr, "Internet Content Rating Association, Presentation of Self-Regulatory Measures" (Paper presented at Combating Child Pornography on the Internet: Vienna, 29 September-1 October 1999.) Available online at: <http://www.asem.org/documents/99confvienna/pa_kerr.html>.

¹⁰² D. Kerr, "Internet Content Rating Association, Presentation of Self-Regulatory Measures" (Paper presented at Combating Child Pornography on the Internet: Vienna, 29 September-1 October 1999.) Available online at: <http://www.asem.org/documents/99confvienna/pa_kerr.html>.

¹⁰³ Department for Education and Employment, UK. For details, see:

<<http://safety.ngfl.gov.uk/document.php3?D=d3>> Further information is available online at: <<http://www.getnetwise.org/tools/>>.

¹⁰⁴ D. Guzman, *Issues in Information Access*. Presented at the HURIDOCS General Meeting in Tunis, 25 March 1998. Available online at: <<http://www.hri.ca/doccentre/cyberspace/guzman.shtml>>

¹⁰⁵ For further details, see *The Canadian Component of the Protection Project: A socio-legal analysis of international jurisprudence on the commercial sexual exploitation of women and children* (Ottawa: HRI, 2000) at 102.

¹⁰⁶ For further details, see *The Canadian Component of the Protection Project: A socio-legal analysis of international jurisprudence on the commercial sexual exploitation of women and children* (Ottawa: HRI, 2000) at 90.

¹⁰⁷ K. Gelinski, "Laws On Inciting Racial Hatred Also Apply To Internet Outside Germany, Court Says" *Frankfurter Allgemeine [English Edition]* (13 December 2000) A1. A non-resident German who lives in Australia was arrested and convicted, while on a visit in Germany, for hosting a Website containing neo-Nazi propaganda and holocaust denial. For details, see: <<http://www.cnn.com/2000/TECH/computing/12/15/german.laws.on.web.idg/>>.

¹⁰⁸ E. MacGillavry, University of Groningen, "Internet Service Providers and criminal investigation: A case study regarding the voluntary co-operation of Dutch ISPs with the investigating authorities". (Paper presented at Combating Child Pornography on the Internet: Vienna, 29 September - 1 October 1999). Available online at: <http://www.asem.org/documents/99confvienna/pa_gillavry.html>.

¹⁰⁹ E. MacGillavry, University of Groningen, "Internet Service Providers and criminal investigation: A case study regarding the voluntary co-operation of Dutch ISPs with the investigating authorities". (Paper presented at Combating Child Pornography on the Internet: Vienna, 29 September - 1 October 1999). Available online at: <http://www.asem.org/documents/99confvienna/pa_gillavry.html>.

¹¹⁰ For a discussion of regulation of the Internet from an Australian perspective, see <<http://www.ecpat.org>>.

¹¹¹ S. Gold, "Seven Jailed in World's Largest Internet Ring" *Newsbytes*, London (14 February 2001). Available online at: <[wysiwyg://41/http://www.newsbytes.com/news/01/161948.html](http://www.newsbytes.com/news/01/161948.html)>.

¹¹² W.R.Graham, Jr., "Uncovering and Eliminating Child Pornography Rings on the Internet: Issues Regarding and Avenues Facilitating Law Enforcement's Access to 'Wonderland' " (2000) *Law Review of Michigan State University-Detroit College of Law* at 457.

¹¹³ E.M. Barnes and T.N. Burrows, International Association of Prosecutors, "Brief Summary of the Findings of Working Group I of the International Association of Prosecutors". (Paper presented at Combating Child Pornography on the Internet: Vienna, 29 September-1 October 1999). Available on-line at: <http://www.asem.org/documents/99confvienna/pa_barnes2.html>. See also Herbert Burkert, University of St. Gallen, Switzerland, "hotlines". (Paper presented at Combating Child Pornography on the Internet: Vienna, 29 September-1 October 1999). Available online at: <http://www.asem.org/documents/99confvienna/pa_burkert.html>.

¹¹⁴ D. Kerr, "Internet Content Rating Association, Presentation of Self-Regulatory Measures". (Paper presented at Combating Child Pornography on the Internet: Vienna, 29 September-1 October 1999). Available online at: <http://www.asem.org/documents/99confvienna/pa_kerr.html>.

¹¹⁵ Conclusions and Recommendations from Combating Child Pornography on the Internet: Vienna, 29 September-1 October 1999. Available online at: <http://www.asem.org/documents/99confvienna/conc_intro.asp>.

¹¹⁶ D.M. Nadler & V. M. Furman, "Administration Relaxes Restrictions on Encryption Software," (1999) 17: 3 *Andrews Computer and Online Industry Litigation Report* at 3.

¹¹⁷ W.R.Graham, Jr., "Uncovering and Eliminating Child Pornography Rings on the Internet: Issues Regarding and Avenues Facilitating Law Enforcement's Access to 'Wonderland'" (2000) *Law Review of Michigan State University-Detroit College of Law* at 457.

-
- ¹¹⁸ N. Krug, “Exploiting Child Labor: Corporate Responsibility and the Role of Corporate Codes of Conduct” (1998) 14 *New York Law School Journal of Human Rights* at 670.
- ¹¹⁹ There is wide acknowledgement at international law of the right to organize into trade unions. See, for example, L.A. Compa and T. Hinchliffe Darricarrere, “Private Labor Rights Enforcement Through Corporate Codes of Conduct” in L. Compa and S. Diamond, eds., *Human Rights, Labor Rights, and International Trade* (Philadelphia: University of Pennsylvania Press, 1996) at 181.
- ¹²⁰ C. Kern, Child Labor: “The International Law and Corporate Impact” (2000) 27 *Syracuse Journal International Law and Communications* at 194. Nike’s code of conduct is available online at <www.nikebiz.com/labor/code.shtml>. This code is notably short. It consists of a few brief sentences.
- ¹²¹ R. Toftoy, “Now Playing: Corporate Codes of Conduct in the Global Theater: Is Nike Just Doing It?” (1998) 15 *Arizona Journal of International and Computer Law* at 923.
- ¹²² R. Liubicic, “Corporate Codes of Conduct and Product Labeling Schemes: The Limits and Possibilities of Promoting International Labor Rights Through Private Initiatives” (1998) 30 *Law and Policy International Business* at 133.
- ¹²³ H. White, “Dynamics of the Global Assembly Line” (1999). Available online at: <http://www.verite.org/dynamics_verite.html>.
- ¹²⁴ L. Yanz, “Maquila Workers Want Employment, but Employment With Dignity,” Maquila Solidarity Network, July 1999. Available online at: <<http://web.net/~msn/5codes2.htm>>.
- ¹²⁵ H. Hiam-White, “Manufacturing Christmas: Their Labor, Our Gifts, Your Choices”. Available online at: <<http://www.verite.org>>.
- ¹²⁶ B. Jeffcott and L. Yanz, “Codes of Conduct: The Debates” ETAG Discussion Paper 1, February 2000. Available online at: <<http://www.web.net/~msn/>>.
- ¹²⁷ J. St. Clair and A. Cockburn, Phony Sweatshop Reform Plan, *Counterpunch* (15 November 1998). Available online at: <<http://www.sweatshopwatch.org/swatch/headlines/1998/FLS.html>>.
- ¹²⁸ R. Liubicic, “Corporate Codes of Conduct and Product Labeling Schemes: The Limits and Possibilities of Promoting International Labor Rights Through Private Initiatives” (1998) 30 *Law and Policy International Business* at 123.
- ¹²⁹ Maquila Solidarity Network, “A Comparison of Provisions in Base Codes of Labour Practice” July 1999. Accessible online: <<http://www.web.net/~msn/3codes1g.htm>>.
- ¹³⁰ UNHCHR, 57th Sess., Report of the Special Rapporteur on the sale of children, child prostitution and child pornography. UN Doc. E/CN.4/2001/78.
- ¹³¹ R. Liubicic, “Corporate Codes of Conduct and Product Labeling Schemes: The Limits and Possibilities of Promoting International Labor Rights Through Private Initiatives” (1998) 30 *Law and Policy International Business* at 118.
- ¹³² R. Toftoy, “Now Playing: Corporate Codes of Conduct in the Global Theater: Is Nike Just Doing It?” (1998) 15 *Arizona Journal of International and Computer Law* at 918.
- ¹³³ J. Anderson, “Respecting Human Rights: Multinational Corporations Strike Out” 2 *University of Pennsylvania. Journal of Labor and Employment Law* at 473.
- ¹³⁴ J. Anderson, “Respecting Human Rights: Multinational Corporations Strike Out” 2 *University of Pennsylvania. Journal of Labor and Employment Law* at 467.
- ¹³⁵ UNICEF, *The State of the World’s Children 2000* (New York, 2000) at 17.
- ¹³⁶ UNHCHR, 57th Sess., Report of the Special Rapporteur on the sale of children, child prostitution and child pornography. UN Doc. E/CN.4/2001/78.
- ¹³⁷ UNHCHR, 57th Sess., Report of the Special Rapporteur on the sale of children, child prostitution and child pornography. UN Doc. E/CN.4/2001/78 at 4.
- ¹³⁸ *Looking Back Thinking Forward: Fourth Report on the Implementation of the Agenda for Action adopted at the First World Congress against Commercial Sexual Exploitation of Children* (Bangkok: ECPAT International, 2000).

