

THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM

**13th REPORT TO THE SECRETARY GENERAL OF THE OAS ON THE
MEASURES UNDERTAKEN BY MEMBER STATES IN ORDER TO
PREVENT AND ERADICATE THE COMMERCIAL SEXUAL
EXPLOITATION OF CHILDREN IN THE AMERICAS**

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GLOSSARY OF TERMS, ABBREVIATIONS AND ACRONYMS

CRC: Convention on the Rights of the Child

CSEC: Commercial Sexual Exploitation of Children

CSEC-TT: Commercial Sexual Exploitation of Children in Travel and Tourism

IIN: Inter-American Children's Institute

Inter-American Programme: *"Inter-American Cooperation Programme for the Prevention and Eradication of Sexual Exploitation, and Smuggling of and Trafficking in Children"*

OAS: Organization of American States

Optional Protocol: Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography

SEC: Sexual Exploitation of Children

The Committee: Committee on the Rights of the Child of the United Nations

This paper addresses the sexual exploitation of children and adolescents; when the terms women and men are used, they refer to adults. The occasional generic use of masculine terms is intended to promote brevity and clarity and should by no means be understood to imply discriminatory connotations of any kind.

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BACKGROUND

In compliance with General Assembly resolution AG/RES 1667 (XXIX-O/99) of 7 June 1999, the Inter-American Children's Institute (IIN) submits an annual report to the Secretary General of the Organization of American States (OAS) on the measures undertaken by the member states to combat the commercial sexual exploitation of children (CSEC).

In 2007, the Directing Council of the IIN adopted resolution CD/RES.10 (82-R/07), which created the *Inter-American Programme for the Prevention and Eradication of Sexual Commercial Exploitation, Illegal Trafficking and Trade in Children and Adolescents*. In 2008, the General Assembly of the OAS welcomed this step taken by the Directing Council of the IIN and adopted resolution AG/RES. 2432 (XXXVIII-O/08). Since then, the IIN has submitted yearly progress reports on the Inter-American Programme and has received opinions and new mandates from the General Assembly of the OAS.

Of special note is resolution AG/RES. 2707 (XLII-O/12)¹, adopted in Cochabamba, Bolivia, in June 2012, which recognizes *"the progress already made by the IIN in fulfilment of its mandates in the framework of the implementation of the Action Plan 2007-2011, which has been reported on in the Institute's annual reports to the General Assembly and to the Permanent Council"*.

Among other matters, it was agreed in this resolution to: *"invite the IIN to consider updating the aforementioned program with a view to including prevention and eradication of all forms of sexual exploitation of minors, as well as restoration of the rights of victims of this crime"*.

In compliance with the General Assembly's proposal and in response to the concerns that several States had already expressed, in its 87th Regular Meeting (San José, Costa Rica, 2012), the Directing Council of the IIN unanimously resolved: ***"To rename the [...] Programme [...] created by means of resolution CD/RES. 10 (82-R/07), as the "Inter-American Cooperation Programme for the Prevention and Eradication of Sexual Exploitation, and Smuggling of and Trafficking in Children"***(CD/RES 04 (87- R/12)².

Finally, in June 2013, the General Assembly, meeting in La Antigua, Guatemala, adopted resolution AG/RES. 2771 (XLIII-O/13)³, in which, bearing in mind the continuing impact of the problem, it determined *"To take note of the progress made in*

¹ Available from: [Forty-Second Regular Session](#) Cochabamba, Bolivia, June 2012. Ibid.

² Available (in Spanish) from: Inter-American Children's Institute - News - 87th Regular Meeting of the Directing Council of the IIN:
<http://www.iin.oea.org/IIN2011/novedades_detalle.shtml?idioma=E&id=155> (See document 5)

³ Available from: <https://www.oas.org/consejo/GENERAL%20ASSEMBLY/AG43regular.asp>

consolidating and deepening the three components of the Inter-American Cooperation Program for the Prevention and Eradication of the Sexual Exploitation, Smuggling of and Trafficking in Children [...]” and “To welcome with satisfaction the decision taken by the Directing Council of the Inter-American Children’s Institute (IIN) at its 87th Regular Meeting [...] to rename the Inter-American Program [...] as the “Inter-American Cooperation Program for the Prevention and Eradication of the Sexual Exploitation, Smuggling of and Trafficking in Children”.

1. “Inter-American Cooperation Programme for the Prevention and Eradication of Sexual Exploitation, Smuggling of and Trafficking in Children”

The Inter-American programme has taken on board the significant aspects of the mandates received and grouped them into three working areas:

Working Area 1: Compilation and systematization of meaningful and updated CSEC-related information, with particular emphasis on material produced in the region, and placing it at the disposal of States, organizations and other interested parties.

Working Area 2: Production of knowledge and instruments to strengthen the capacity of the States when addressing the sexual exploitation of children.

Working Area 3: Increasing the capacity of the States to confront SEC, through technical assistance and training.

1.1. Annual reports submitted to the Secretary General of the OAS

Annual status reports to the Secretary General provide a description of the situation within the Inter-American System. As from 2010, these reports began to be perceived as an opportunity to focus on a specific significant issue regarding which the States have expressed concern.

For 2013, and particularly for this Thirteenth Report, it was decided to aim the production of knowledge at the subject of **commercial sexual exploitation of children in travel and tourism** (CSEC-TT).

As we shall see below, in recent decades, the international community has been expressing its concern regarding the increasing emergence of places and communities frequented by travellers who engage in remunerated sexual relations with local children or adolescents.

People worldwide are becoming increasingly mobile and the routes they travel are progressively more diverse, which leads to the conclusion that there is a risk that this form of violation will escalate. To this is added the upsurge in the use of communications technologies, which enable travellers and their hosts to contact each other directly and personally. This increases the informality of the tourist industry and weakens the State's control over this kind of activity. On the other hand, however, progress in raising awareness of the issue, and its inclusion on the region's political agendas, has led to shedding a stronger light on a situation that had so far been invisible.

The objective of this report is to analyse some of the experiences in the region with regard to preventing and eradicating this form of sexual exploitation, with the purpose of deriving lessons which will strengthen the capacity of States and social organizations: what has been done? How has it been done? Who were the actors who took part in these activities? What challenges were encountered? How were they overcome?

INTRODUCTION

While in 1969 the American Convention on Human Rights had already stipulated in its Article 19 that *"Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state"*, the **Convention on the Rights of the Child (CRC)** was the first international law to recognize specifically in its Article 34 that

"States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials."

The **Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography** was adopted in 2000, in order to reinforce and complement the provisions of the CRC, particularly with regard to children's right to special protection from commercial sexual exploitation.

The protocol defines the sale and exploitation through prostitution and pornography as:

"(a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;

- (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;*
- (c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.” (Art.2)*

The Optional Protocol underscores the value of international cooperation in preventing and eradicating this scourge. It stresses the importance of cooperation between the States in order to carry out investigations; facilitate the extradition or punishment of those responsible in their country of residence; effect the seizure or confiscation of goods at the request of other States; take measures of protection for the victims; ensure appropriate training for legal operators and other persons who deal with children (Arts. 7, 8, 10)

In addition, the protocol highlights the need to ensure that criminal law should fully provide for the offences of sale (with the purpose of sexual exploitation, organ trafficking, forced labour or illegal adoption), prostitution and pornography, whether these offences are committed domestically or transnationally (Art. 3). This is a critical point, in view of the fact that these activities are frequently carried out beyond national borders.

Finally, it indicates that *“States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this Article, States Parties shall encourage the participation of the community and, in particular, children and child victims [...] (Art. 9, par. 2).*

The **Committee on the Rights of the Child of the United Nations** periodically reviews the progress achieved by each State Party in fulfilling the obligations undertaken with regard to both treaties.

To this end, States that ratify or accede to the Optional Protocol must submit, within two years following its entry into force, *“a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol”* (Art. 12). Subsequently, they will add to the regular report on the CRC additional information regarding the implementation of the Optional Protocol or, if they are signatories, but not parties to the CRC, they should submit their reports every five years.

By August 2013, the general reports on the provisions of the Optional Protocol of the following OAS member states had been submitted to and evaluated by the Committee: Costa Rica 2007, Guatemala 2007, Chile 2008, United States of America 2008, Ecuador

2010, El Salvador 2010, Argentina 2010, Colombia 2010, Nicaragua 2010, Mexico 2011, Canada 2012, United States of America 2012 (second report).

The country reports of the following member states are ready to be addressed in forthcoming sessions: Honduras, Paraguay, Uruguay and Venezuela⁴.

ORGANIZATION OF THE STUDY

This study is organized in three parts, plus a final chapter containing conclusions. In the first part, the theoretical framework underpinning our handling of the subject of CSEC-TT is described: status report, demarcation and conceptualization.

In the second part, a brief reference is made to the position of the issue on the agenda of the international community.

The third part contains an analysis of the practices identified in the States included in the study, with an analysis matrix that uses the framework of the Stockholm Agenda as a guide.

Finally, a number of conclusions are drawn and recommendations are made.

METHODOLOGY

This study was undertaken in recognition of the fact that it is important for the States and organizations in the region to have access to knowledge that will strengthen their capacity to confront the new forms of sexual exploitation of children.

The objective of the report is to systematize and analyse the experiences that have been implemented in recent years in several of the States of the Inter-American System, in order to extract lessons from them.

To this end, we chose a “case analysis” methodology and focused on States with programmes and systematic strategies that would generate accessible information which could be analysed and evaluated.

The States included in the study were: **Brazil, Colombia, Costa Rica, Dominican Republic, Mexico and Peru.**

⁴ Information available from: Office of the United Nations High Commissioner for Human Rights - Committee on the Rights of the Child - Sessions:
<<http://www2.ohchr.org/english/bodies/crc/sessions.htm>>

Two sources of information were used. On the one hand, sources of secondary data – a review of the literature, including studies and reports on governmental, inter-governmental or civil society-based experiences. On the other, primary data based on a number of guiding questions drawn up by the IIN and answered by the technical liaison officers in the States, who provided reports and documentation.

The information compiled was systematized and analysed on the basis of a matrix that uses the Stockholm categories as a guide: 1. Coordination and Cooperation; 2. Prevention; 3. Protection; 4. Recovery and Reintegration; 5. Child Participation.

THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM

PART I CONCEPTUAL FRAMEWORK

1. TRAVEL, TOURISM AND CHILD RIGHTS

Ever since the eighties, the tourist industry has been gaining strength as a source of income for many of the countries in the Americas. Every year, the region's natural and cultural attractions bring in large numbers of visitors from many different parts of the world. In addition to the flow of international travellers, there is also internal tourism, in numbers that in some cases exceed the number of travellers coming from abroad.

Nevertheless, tourist activities do not always give due consideration to the key principles of so-called "sustainable tourism". This is a movement promoted by the World Tourism Organization (WTO) and other organizations, which advocates enjoying and engaging in tourist activities without jeopardizing the natural or cultural wealth of the inhabitants of local communities, let alone their quality of life and dignity.

The movement of people, both within a country's territory and beyond its international borders, tends to bring highly vulnerable local populations into contact with groups of travellers whose purchasing power is – at least in relative terms – significantly higher than their own.

As a result, it has often been observed that in areas where these groups of tourists or travellers settle or circulate, the local population begins to develop a variety of survival strategies and activities, in which children often take part. Some of the many possible activities they engage in are street-vending, escorting travellers, providing a guide to restaurants or accommodation, watching over vehicles, and begging.

Thus, different forms of child labour take place in these areas that evade the State's control and fall outside any form of protection that the State might provide. These activities can be grouped under the so-called "worst forms of child labour", which the States in the region have undertaken to eradicate on a number of occasions. However, the very informality and characteristic organization of these forms of labour make it difficult to identify the adults who profit from them, thus making it impossible to hold them accountable.

This model widens the gap between an intense commercial activity and the limited opportunities available to the inhabitants of gaining access to appropriate levels of consumption. Furthermore, certain attitudes have been identified on the part of those

who, as tourists, feel themselves to be in a position of power that allows them to act with impunity to commandeer places, objects and persons. These people consider that nothing but their own pleasure matters and have lost all respect for the local community.

This is why it is essential to promote and develop the perspective of sustainable tourism, both among the owners of businesses and among travellers, as well as in the communities themselves. The key to this transformation lies in understanding that forms of tourism that respect natural and human environments make it possible to preserve these settings over time, preventing them from becoming degraded or stigmatized destinations because of the type of activities they offer.

2. THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDRE IN TRAVEL AND TOURISM

2.1. Definition

One of the issues that jeopardizes the sustainability of tourism and particularly threatens children is commercial sexual exploitation.

What do we mean when we refer to child sex tourism⁵ or the commercial sexual exploitation of children in travel and tourism?

There are a number of conceptual arguments surrounding its demarcation.

Firstly, there is the question of whether this is a specific form of child sexual exploitation, or whether it constitutes a scenario that can be included among the traditional modalities. While this can be the case, and, in fact, tourists and travellers are often consumers of both “sexual services” and erotic shows, as well as pornographic depictions in which children take part, we cannot ignore the fact that this scenario (travel and tourism) also has special features that should be borne in mind when designing strategies to confront and eradicate it.

To begin with, the customer/exploiter (either a national or a foreigner) is always someone alien to the place in which the offence is committed. This leads to certain consequences:

⁵ The term “child sex tourism” has been brought into question, as tourism is a lawful commercial, recreational and cultural activity, so referring to criminal forms of tourism does not appear to be appropriate.

- Foreignness gives rise to anonymity, which leads to the weakening of social control. Nobody knows him, nobody is likely to ever see him again, his family and friends will never know what he gets up to there.
- The cultural distance between exploiters and the destination community results in their perceiving local children as different and “inferior” to the children of their own cultural setting. This generates myths that justify criminal conduct, such as “they are sexually precocious”, “it comes naturally to them to have sex for money”, “this is a way to help them earn some money to survive”.
- Unlike immigrants, tourists and casual travellers tend to belong to a higher socio-economic background (in relative terms) than the local community, and are therefore assumed to have the means to purchase goods and services at their destination. As a result, in areas inhabited by vulnerable communities, travellers or tourists are viewed as occasional “sources of money”, which is obtained by offering a variety of objects and services, among them, sexual services.

To this is added that the victims’ vulnerability is not only caused by their lack of material resources, but also by the absence of social integration models and opportunities. In a situation such as this, the opulence and high level of consumption that is associated with tourists can activate a child’s fantasy, including infatuation or fascination, which thus operate as an attraction factor in the absence of other alternatives to gain access to a better quality of life.

Another feature is the existence of other actors in the CSEC-related production and reproduction circuit (in addition to the classic roles of victim, customer/exploiter, intermediary or procurer). These are people connected directly and indirectly to the tourist industry (hotels, restaurants, taxis), who intentionally or unintentionally may act as go-betweens when these offences are committed, although they can also constitute key factors to prevent them.

Secondly, while some definitions are restricted to travelling for the purpose of tourism, others are broader and include all kinds of travelling, regardless of its objective. As well as tourism, these definitions cover business trips, technical and cultural exchanges and even the relocation of groups of workers required for infrastructure projects. In this case, it is not only tourists who are involved, but a broader category, which can be defined as “persons in transit”.

Thirdly, although there is a tendency to think of foreign tourists in relation to this issue (and this is the slant given to awareness-raising), these criminal activities can also include domestic tourists or travellers who travel within their own country. The heart of the matter lies in the foreignness of the “customer/exploiter” in relation to the place where the criminal offence is committed. So, for ECPAT International, “*Child sex*

tourism is the sexual exploitation of children and young people by persons who do not normally live in the location where the abuse takes place” (ECPAT International, 2009).

Grillo (2010) has suggested a definition of CSEC-TT, which takes these considerations into account:

“a worldwide issue which implies the use for sexual purposes of persons under the age of 18, in their country or area of residence, on the part of foreigners or nationals who travel to that country or region as travellers or tourists. It includes promoting the country as an accessible location for the free exercise of this activity, by nationals or foreigners.”

CSEC-TT is considered to be increasing throughout the world. However, measuring the problem and arriving at exact figures is a major challenge. Among other things, this is due to the lack of research; the lack of familiarity with the subject, which often leads to CSEC-TT cases not being identified as such, and the fear of negative repercussions that might affect tourism if the problem is “revealed” or acknowledged.

2.2. Risk factors and causes

There are many psychological as well as social and cultural reasons advanced to explain why this phenomenon takes place and/or is facilitated. They are related to the child victim and his or her family, as well as to the tourist/exploiter and the local or national setting.

“[...] one of the most important reasons why child sex exploitation is taking place among tourists is because the children are readily available. The ease with which tourists in some countries can obtain a child as a sexual partner is, in itself, a powerful incentive for some to try the novelty of a child sex partner” (Document submitted by ECPAT to the First World Congress against CSEC, 1996: 2).

Children exposed to this form of exploitation tend to already be experiencing other forms of vulnerability: they have been orphaned or abandoned, they are the victims of sale or other kinds of ill-treatment or exploitation, they are homeless, not part of the school system and they work.

Among risk factors for families are extreme poverty, no access to basic services such as education and health, no access to the labour market, dependency on seasonal economies, belonging to minority groups, undergoing internal functional and relationship issues (addiction, family violence). In this context, *“[f]amilies may themselves promote the exploitation of the child, expecting him/her to help provide for the family, while both exploiters and paedophiles may easily deceive them by offering*

quick money and a supposedly better future for their children. In the worst cases, neighbours, friends and even close relatives consciously sell these children to be exploited” (Najat Maalla M’jid, 2012: 11).

Beyond the vulnerability of children and families, an aspect that the conventional studies in the field tend to emphasize, it is essential to note that the process is triggered by the existence of persons (usually adult men) who are willing to pay to gain access to the bodies of children. It is these individuals who provide the money that keeps the exploitation circuit going and at the same time, boosts the power of criminal organizations.

Those who have made a systematic study of the motivations behind this demand tend to focus their explanations on the prevalence of predominantly patriarchal models of exercising sexuality. *“Despite some progress, male/female and adult/child relations continue, to a large extent, to resist the process of democratization in daily life. There are deeply-rooted cultural factors linked to sexuality, gender roles and adult-adolescent relations, which favour sexual violence and tend to naturalize exploitative relationships” (IIN, 2012).*

In relation to the environment, we quote Rodolfo Martínez (2008), who considers that a “context that furthers exploitation” is *“a perverse system of practices, relations, incentives and values that is set up gradually and becomes fixed over the passage of time, enabling, maintaining and perpetuating CSEC”*. This context is not restricted to the victim and his or her immediate surroundings, but includes structural and cultural elements, ways of distributing wealth and power, and social representations that perpetuate and legitimize these asymmetries.

In the first place, among risk factors we should note the existence of large numbers of vulnerable children and families (the factors analysed above) and the effects of the interaction between poverty and high levels of consumption. Teenagers recruited by organizations are usually motivated by the fear of destitution, which is not merely material poverty, but being part of a world in which inclusion and status are linked more closely to having than to being.

Secondly, ignorance of and the lack of respect for human rights (particularly those of women and children) and/or the social acceptance or justification of sex with children are also risk factors.

In connection with this, depending on international tourism as a source of income contributes to viewing CSEC-TT as a “necessary evil”. Depictions of tourists or travellers as persons who “bring in wealth” help to build a “culture of tolerance”, as well as contributing to the development of multiple strategies through which to gain access to their money. As a result, CSEC-TT-related activities are often tolerated and even fostered by a number of stakeholders involved in the circuits through which potential

“client/exploiters” travel. These actors (such as lorry drivers, food services personnel, hotel staff) believe that these activities can benefit them financially or, at least, help make foreigners spend their money at that destination.

This kind of attitude “naturalizes” these conducts and transmits to travellers the view that these practices are not condemned in that locality.

A contributing factor throughout the world is the huge benefit obtained from this kind of criminal activity. *“The role of organized crime in the supply of children must be recognized. Because tourists are often willing to pay large sums of money for sexual services from children, the trade in children has become more lucrative to criminals and therefore more commonplace”* Document submitted by ECPAT to the First World Congress against Commercial Sexual Exploitation of Children, 1996:2).

2.3. “Tourist/Exploiters”

As we have said, the CSEC reproduction circuit, whatever the modality or scenario in which it takes place, is perpetuated because of the existence of persons willing to pay for sexual access to children’s bodies: “customer/exploiters”.

A distinction can be made between two types of “exploiter/tourist or traveller”, **on the basis of the primary purpose of their trip or journey** (Najat Maalla M’jid, 2012; Sotelo, et al., 2005):

Occasional or situational exploiters are described as tourists who do not travel with the intention of seeking sexual relations with children, but who are tempted by opportunity and the availability of child sexual partners at their destination. Their behaviour is driven by local factors that enable these practices and that they perceive at the time of their visit, such as the location being promoted as “suitable” or “favourable” for commercial sex with children, social acceptance of sex with children, etc.

Preferential exploiters travel specifically with the purpose of having sexual relations with children. In contrast to occasional exploiters, they use every means available (the Internet, magazines, contacts) in order to obtain information about destinations throughout the world where they can gain access to children.

In this case, to the motivations described above are added the factors that we have also mentioned that result from their “alien” status: the feeling of anonymity triggered by being in a different location and that pushes people to behave in ways that they normally would not contemplate in their places of origin; feelings of impunity; the valuation of the local culture.

The identification of whether countries are primarily source or host countries for tourist/exploiters, and the predominant types of exploiters and where they come from (domestic or foreign) can contribute to deciding upon appropriate measures.

PART II

INCLUDING THE ISSUE OF COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM ON THE INTERNATIONAL AGENDA

1. WORLD CONGRESSES

The **First World Congress against CSEC** was held in **1996**, in **Stockholm**. Specific lines of action were agreed upon at that time, and are still current: 1. Coordination and Cooperation; 2. Prevention; 3. Protection; 4. Recovery and Reintegration; 5. Child Participation. Thus, the foundations were laid for the first national action plans against sexual exploitation.

The *Declaration of the 1st World Congress against Commercial Sexual Exploitation of Children*⁶ includes references in this regard.

Among the commitments undertaken under the Prevention focal point it indicates: “[...] j) mobilize the business sector, including the tourism industry, against the use of its networks and establishments for the commercial sexual exploitation of children”. Within the Protection category, paragraph d) states: “in the case of sex tourism, develop or strengthen and implement laws to criminalize the acts of the nationals of the countries of origin when committed against children in the countries of destination (“extra-territorial criminal laws”); promote extradition and other arrangements to ensure that a person who exploits a child for sexual purposes in another country (the destination country) is prosecuted either in the country of origin or the destination country; strengthen laws and law enforcement, including confiscation and seizure of

⁶ Declaration and Agenda for Action. Declaration arising from the meeting held in Stockholm on occasion of the First World Congress against Commercial Sexual Exploitation of Children. Stockholm, 24 August 1996. Available from:
http://www.csecworldcongress.org/PDF/en/Stockholm/Outome_documents/Stockholm%20Declaration%201996_EN.pdf

assets and profits, and other sanctions, against those who commit sexual crimes against children in destination countries; and share relevant data”.

Paragraph g) for its part, refers again to tourist industry businesses: *“identify and encourage the establishment of national and international networks and coalitions among the civil society to protect children from commercial sexual exploitation; foster action and interaction among communities, families, non-governmental organizations, the business sector, including tourist agencies, the World Tourism Organization, employers and trade unions, computer and technology industry, the mass media, professional associations, and service providers to monitor and report cases to the authorities, and to adopt voluntary ethical codes of conduct”.*

In **2001**, just after the adoption of the Optional Protocol, the **Second World Congress was held in Yokohama**, Japan. At this time, participating governments and organizations adopted the document known as the *Yokohama Global Commitment*⁷.

This document devotes a chapter to following up the Stockholm agreements and points to some of the developments in this field, such as: *“[...] national and international agendas, strategies or plans of action to protect children from sexual exploitation, and new laws to criminalize this phenomenon, including provisions with extra-territorial effect; [...] the comprehensive, systematic and sustained involvement of the private sector, such as workers’ and employers’ organizations, members of the travel and tourism industry, including Internet Service Providers and other businesses, in enhancing child protection, including their adoption and implementation of corporate policies and codes of conduct to protect children from sexual exploitation”.*

Finally, the **Third World Congress against Child Sexual Exploitation** took place in **Rio de Janeiro**, Brazil, in **2008**. On that occasion, participating governments and organizations ratified the *Rio de Janeiro Declaration*⁸, in which the issue of CSEC-TT figured prominently.

Firstly, participants expressed their *“concern at the continuing high level of sexual exploitation of children and adolescents in States in all regions, and at the increase in certain forms of sexual exploitation of children and adolescents, in particular through abuse of the Internet and new and developing technologies, and as a result of the increased mobility in travel and tourism”.*

⁷ Yokohama Global Commitment. 2nd World Congress against Commercial Sexual Exploitation of Children. Japan, 17 to 20 December 2001. Available from: <http://www.unicef.org/events/yokohama/outcome.html>

⁸ Third World Congress against Commercial Sexual Exploitation of Children. The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents. Available from: http://ecpat.be/files/2013/10/Rio_Declaration_and_Call_for_Action.pdf

Among the developments in this area, the Declaration welcomed *“(5) The conclusion of bilateral and multilateral agreements between and among States with a view to establishing effective cooperation in efforts to prevent and combat cross-border trafficking and sexual exploitation of children and adolescents as well as for the detection, investigation, prosecution and punishment of those responsible. (6) Increased support of companies operating in tourism and travel by signing the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism”*.

In its call for action, it calls upon the States to promote a number of actions such as: *“[e]ncourage and support the tourism, travel and hotel sectors in adopting professional Codes of Conduct, [...] encourage the use of businesses that put in place appropriate child protection-focused corporate social responsibility strategies; [...] [e]nsure that all stakeholders pay specific attention to unregulated tourism to prevent domestic and international travellers from sexually exploiting children and adolescents; [c]ooperate in the establishment of an international travel notification system, such as the Interpol ‘green notice’ system, in accordance with applicable law and human rights standards; [e]nsure investigation and, where sufficient evidence exists, that appropriate charges are brought and vigorously pursued against the State’s nationals who are reported or alleged to have sexually exploited a child in a foreign country; [p]rohibit the production and dissemination of material advertising the sexual exploitation of children in tourism; and alert travellers to criminal sanctions that will apply in cases of sexual exploitation of children”*.

It also calls upon the States to *“[m]onitor new and emerging tourist destinations and establish proactive measures to work with private sector partners involved in the development of tourism services on measures to prevent the sexual exploitation of children and adolescents, including the use of socially and environmentally responsible strategies that promote equitable development”*.

As Brazil was the host country, follow-up to the Third World Congress has had a greater impact on OAS member states. For example, within MERCOSUR, the Niñ@Sur working group has made the issue a priority, with a focus on a *“Regional strategy to prevent the trafficking and smuggling of children and adolescents with the purpose of sexual exploitation within MERCOSUR”*, implemented in frontier cities in the following countries: Argentina, Brazil, Uruguay and Paraguay.

2. SUB-REGIONAL MEETINGS

As we have said, the IIN, together with the States in the region, has been holding sub-regional meetings in the context of the *Inter-American Programme*, in order to share good practices to confront SEC.

The outcome document⁹ for the **First Sub-Regional Meeting** held in **Costa Rica** in 2010 states that: *“The region [Central America] experiences a significant amount of tourism, which is sometimes associated with commercial sexual exploitation of children.”*

“[...]There are a number of factors which contribute to generating CSEC circuits connected to travel and tourism:

- *The country is developing or extremely underdeveloped.*
- *The country is marketed as a tourist destination, insufficiently differentiated.*
- *International tourism is a significant source of income, with the resulting investment in infrastructure, mainly by foreigners, which gives rise to a species of colony, which is difficult for nationals to control, whilst the fear of interfering with tourist activities weakens the intervention of supervisory agencies.*
- *High rates of impunity for CSEC cases, owing to the lack of specific legislation, or deficiencies in its application.*
- *Implicit social consent as a result of denial, ignorance or stereotyping in the country.*
- *A lack of, or insufficient extraterritorial legislation defining this behaviour legally and making it possible to apply penalties beyond a country's borders.*
- *The significant presence of drug trafficking and consumption.*
- *Existence abroad of the concept that both age and sex have a different meaning in the country than in travellers' countries of origin; so the “rules of the social game” which apply are not the same. These beliefs appear to legitimize sexual access to underage persons, and minimize the harm it causes, viewing it as typical of an underdeveloped culture.*

All of which contributes to the generation of behaviour models with regard to sexuality which have a local impact and strengthen national organizations.

The need therefore arises to work on the issue with various different actors; among them, tourist operators and service providers who work with them: taxis, hotels, recreational establishments, etc. The experience of drafting codes of ethics, or generating circles of hotel owners against CSEC, together with the prevention of promotional campaigns for the country which insinuate the possibility of obtaining sexual access to children, show the way to transforming these situations.

It is necessary to sensitize and train tourist circuit personnel and publicize the criminal nature of engaging the sexual services of underage persons.

⁹ Available from: IIN (2012): *Good Practices in Addressing the Commercial Sexual Exploitation of Children (II). Systematization of the Regional Meeting on the “Prevention, Protection and Restitution of Rights in the face of CSEC: Experiences for Reflection”*. <http://www.annaobserva.org/2012/?cat=7&lang=en>

Legal frameworks do not contemplate these situations appropriately. It is proposed to agree on minimum international penalties for prostitutes, including economic penalties, such as the seizure of assets."

The **Second Sub-Regional Meeting** was held in **2011**, in **Jamaica**, and convened the English-speaking States of the Caribbean, and Haiti. Concern was expressed at the meeting at the existence of legal gaps and the scant monitoring of the movement of persons. In the Caribbean, sexual exploitation is a major issue that is associated with regulatory gaps and beliefs that contribute to perpetuating it¹⁰.

The **Third Sub-Regional Meeting** was held in **Asunción, Paraguay**, in **2012**. On this occasion, it was stated that: *"In the region, there are still areas inhabited by vulnerable communities in which the State and its institutions are absent, which generates favourable conditions for the violation of rights."*¹¹ There is evident concern regarding certain forms of tourism that take place in these territories.

In relation to prevention and the restitution of rights, this paper insists on *"the importance of involving other stakeholders, such as businesspeople, social organizations, the media and unions, in order to promote behaviour that is respectful of children's rights and offers opportunities for integration to the victims of criminal activities.. In this respect, it has been proved that it is necessary to establish prevention and control strategies in industrial areas or in the vicinity of large construction sites where there is a heavy concentration of men. It is hoped to obtain the cooperation of corporations and workers' associations in this endeavour."*

Finally, the **Fourth Sub-Regional Meeting** was held in **El Salvador**, in **2013** and focused on the key subjects of trafficking and sexual exploitation in travel and tourism. On this occasion, the representatives of the Central American States, plus Mexico and the Dominican Republic, shared a number of good practices related to CSEC-TT and reaffirmed the connection between this form of exploitation and trafficking and other worst forms of child labour. Some of the principal recommendations arising from the meeting were the need to tighten border control operations between the various States, as well as the need to synchronize the protocols used when trafficking is suspected, particularly when situations involve children.

Although the declarations signed both at World Congresses and at Sub-Regional Meetings are not legally binding for the States, they are, nonetheless, agreements

¹⁰ Paper available from: IIN (2011): *Good Practices in Addressing the Commercial Sexual Exploitation of Children (III). Systematization of the Regional Meeting on "Protecting the Children of the Caribbean from Commercial Sexual Exploitation"*:

< http://www.annaobserva.org/2012/wp-content/uploads/2012/09/Buenas_Practicas_ESCNA_III.pdf>

¹¹ Paper available from: IIN (2012): *Issues Note N° 2/12, Third Regional Meeting on the "Prevention, Protection and Restitution of Rights in the Face of CSEC: Experiences for Reflection"*:

<http://www.annaobserva.org/2012/?cat=7&lang=en>

made in good faith, and are politically and technically significant, inasmuch as they establish parameters for specifically addressing these issues.

The measures proposed can be grouped into three broad categories:

- A call for the social responsibility of the tourist industry and the involvement of different stakeholders in the fight against these forms of rights violations, including the communities themselves.
- The establishment of criminal legislation and the conclusion of agreements of cooperation between States in order to bring offenders to account, either for acting as go-betweens or for paying for sexual access to children, both within borders and beyond them.
- Reducing the demand for sex with children through information provided to the general population and to travellers about the criminality of these practices and the penalties to which those who commit these crimes are exposed.

PART III

LEARNING FROM EXPERIENCE

1. ACTIONS FOR PREVENTION AND FOR THE PROTECTION OF CHILDREN FROM SEXUAL EXPLOITATION IN TRAVEL AND TOURISM. BACKGROUND

Action to prevent the sexual exploitation of children in travel and tourism has usually been promoted by international organizations devoted to child protection, such as the United Nations Children's Fund (UNICEF) and End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT International).

The World Tourism Organization has also played a significant role by recognizing the existence of this issue and determining that it is unmistakably contrary to the objectives and essence of tourist activity, and therefore proposing that it be energetically combated:

"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, in accordance with international law, it should be energetically combated with the cooperation of all the States concerned and penalized without concession by the national legislation of both the countries visited and the countries of the perpetrators of these acts, even when they are carried out abroad" (Global Code of Ethics for Tourism, Article 2, paragraph 3).

In response to the pressure of international organizations, some of the States have begun to include this issue among their public policies, providing for it not only in the plans of agencies that are specifically devoted to children, but also in those connected with tourism, such as Tourism Institutes or Ministries.

For its part, the private sector of the tourist industry has also begun to implement prevention strategies. Its initiatives may be even more significant than those initiated by the State, inasmuch as they show evidence of a commitment that can be perpetuated beyond whatever government is in office. The workers of the tourist industry and related activities (taxi drivers, for example) are fundamental in the prevention of child sexual exploitation, particularly in the identification of risk factors.

One of the mechanisms used is the adherence to “Codes of Conduct” that demand the active commitment of tourist enterprises to the prevention of this scourge. The original Code of Conduct was initially conceived and adopted by ECPAT Sweden and a group of Scandinavian tourist operators. It was subsequently propagated throughout the world. At present, the contents and means of implementing and monitoring the code of conduct vary from one country to another, depending on the specific characteristics of the phenomenon. However, its essential criteria and principles are the same (Sotelo et al, 2005: 5-6).

Nevertheless, in some countries, the involvement and participation of the tourist industry continue to be challenging (mainly among small and medium businesspeople), owing to the persisting idea that a campaign against child sex tourism can give rise to a poor image of the tourist destination, keep tourists away and, as a result, lead to economic loss.

In relation to legislative measures, the legislation of most of the States of the Americas contains provisions to protect children from commercial sexual exploitation (for example, by including definitions of child prostitution and pornography). However, not all States include commercial sexual exploitation itself, let alone sex tourism.

In this respect, it is essential to draft specific legislation that considers all actions and activities related to CSEC-TT that are carried out by individuals or by businesses, to be criminal offences. Offences that could be included are: travelling for the purpose of sexual contact with children; fulfilling this purpose, or planning or preparing for it; conspiring towards it, encouraging it and obtaining benefits from the use of children for these purposes.

In addition, as this is a transnational offence, extra-territorial legislation has been pinpointed as an essential instrument in preventing it, enabling national authorities to initiate legal proceedings and demand that their citizens be held accountable for offences committed abroad.

In sum, it has been proved that “destinations” in which these criminal acts take place change quickly and frequently, **in keeping with the evolving capacity for prevention, detection, protection and punishment on the part of the State, the private sector and organized civil society**. This shows that it is important that the country as a whole make efforts to prevent and eradicate this issue.

2. CASE STUDIES

Below we describe and explore the most significant practices identified in the States of Brazil, Colombia, Costa Rica, Dominican Republic, Mexico and Peru.

The information was systematized, cross-cutting across all of these States, on the basis of a matrix that uses the Stockholm categories as a reference: 1. Coordination and Cooperation; 2. Prevention; 3. Protection; 4. Recovery and Reintegration; 5. Child Participation.

2.1. Coordination and Cooperation

There are several different levels of coordination and complementation of actions for the eradication of sexual exploitation of children, in its different forms. On the one hand, **national coordination**, and on the other, **international coordination**; an aspect that the Optional Protocol underscores.

2.1.1. National Coordination Including “new stakeholders” in policies designed to address CSEC

All six of the States mentioned above have national plans to prevent and eradicate CSEC, which are led by national, multi-stakeholder commissions or committees that include government institutions, private sector agencies, civil society organizations and international agencies (in an advisory capacity).

Labour ministries and tourism ministries or agencies are included among the State institutions that are members of the commissions, in all of these cases. This is particularly significant, as these ministries are the States’ institutional reference points for tourist operators and companies. They issue rules and quality certifications, and launch promotional campaigns. They can also regulate campaigns aimed at promoting tourist destinations abroad, which can be used as an opportunity to circulate messages that are in keeping with campaigns carried out within the country.

In this respect, lessons have already been learned (in most of the States in the region) with regard to the fact that CSEC prevention policy, and in this specific case, CSEC-TT

prevention policy, should move beyond child-protection and crime control institutions in order to reach those sectors in which tourism and other related activities are organized and developed.

2.1.2. International Coordination

In the matter of tourism specifically, and with regard to inter-governmental cooperation, we should note particularly the existence of the **World Tourism Organization**, “the United Nations agency responsible for the promotion of responsible, sustainable and universally accessible tourism”¹². Its membership includes 156 countries, **among which are the six countries that are the object of this report**, and over 400 Affiliate Members representing the public and private sectors.

*“As the leading international organization in the field of tourism, UNWTO promotes tourism as a driver of **economic growth, inclusive development and environmental sustainability**”¹³. To this end, in 1999, the WTO proclaimed the **Global Code of Ethics for Tourism**, a tool “[...] to maximize tourism’s socio-economic contribution while minimizing its possible negative impacts [...]”¹⁴.*

As we have said, the Code acknowledges child commercial sexual exploitation to be clearly in conflict with the interests of tourist activities and compels the States to combat the problem: *“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, in accordance with international law, it should be energetically combated with the cooperation of all the States concerned and penalized without concession by the national legislation of both the countries visited and the countries of the perpetrators of these acts, even when they are carried out abroad”* (Article 2, paragraph 3).

This brings to the fore the need to establish close inter-governmental cooperation, as well as cooperation between States and international agencies, in persecuting and punishing individuals responsible, in addition to engaging in prevention action. It should be borne in mind that as this is a transnational offence, it is vital to establish this kind of cooperation and coordination.

2.2. Prevention

The analysis of the information gathered shows that there are two basic aspects on which prevention focuses:

¹² Source: World Tourism Organization: <http://www2.unwto.org/content/who-we-are-0>

¹³ Ibid.

¹⁴ Ibid.

- 1) reducing the demand for sex with children by means of communicational activities aimed at travellers;
- 2) changing the setting, doing away with the “exploitation-favouring context” (Martínez, 2008). Efforts are made to revert the tendency to believe that tourists should always be satisfied, even when their expectations run contrary to the law and infringe upon rights, as well as the tolerance that this implies. As a result, information campaigns emphasize the criminal aspects of these practices and the penalties that can be applied to individuals who pay for sex with underage persons. In addition, measures are taken to involve businesses in corporate ethics policies with a view to eradicating these practices.

A third element that is present in some of the experiences, although less apparent, involves actions undertaken to revert the vulnerability of local youth populations by means of training activities and programmes to generate decent jobs based on the same tourist activities that take place in the locality.

2.2.1. Communication campaigns

Some of the most frequently used prevention activities are communication campaigns. Among the experiences analysed, we identified “communications products” targeting two types of populations: travellers, in their capacity as potential exploiters, and the community in general.

a) Communications campaigns aimed at travellers

The messages contained in the campaigns targeting travellers are basically twofold: 1) they provide direct information about the law and the criminal penalties incurred by anyone paying for sex with children, and 2) they focus on the protection of children as a policy of State. For example, one of **Peru's** campaigns points out that: *“In Peru we protect our history, our culture and our biodiversity, as well as a treasure of inestimable value: our children.”*

These campaigns do not usually refer to specific tourist destinations within the country, in order to avoid associating that destination with the existence of “opportunities” to buy sexual services, with the effect of attracting individuals who travel with that purpose. In addition, this would be detrimental to the image of that location. Because of this, only generic messages are transmitted.

The idea is not only to transmit an explicit message, but also to show that the community is alert to the possibility of child rights being violated and to have an effect on the conduct of travellers by reminding them of the penalties to which they are exposed.

The most prevalent form of achieving this is through posters and slogans printed on the documentation handled by travellers. To this end, the so-called “traveller’s route” is taken into account: airports, customs, taxis and rental cars, fairs and commercial centres, hotels, and restaurants. International agreements are reached in order to place posters in tourists’ airports of origin or stop-over airports. Advertising in airline company magazines is often a useful and economical option.

b) Communications campaigns aimed at local communities

The objective of these campaigns is to raise awareness of the issue among the population, promoting hotlines and slogans such as “*open your eyes without keeping your mouth closed*”.

For example, in **Peru**, “*the Ministry of Foreign Trade has promoted a national campaign called “**Protect me: tourism protects your treasures**”, with the purpose of combating the use of minors in sexual and erotic acts. This campaign has been launched jointly with Save the Children, in the regions of Madre de Dios and Cusco, where sexual exploitation in tourism is high. To this end, training workshops, working panels, exhibitions, and information fairs were carried out between April and August in order to raise awareness and generate commitment among the authorities and the general population, regarding the need to eradicate the sexual exploitation of children*”¹⁵.



¹⁵ Information provided by the State.

Among local communities, efforts should be made to reach the network of services used by tourists and travellers, which they often resort to when seeking information on how to make contact with children, or, when hotel controls are very strict, the services provided by taxi drivers, street sellers and owners of rental houses.

In this respect, the experience of **Costa Rica** is a case in point. “[...] *the Costa Rican Institute of Tourism (ITC, for its acronym in Spanish), as the country’s most representative tourist industry institution, has addressed this issue most particularly, launching a campaign against CSEC in the coastal areas of the country (Guanacaste and Puntarenas). The participation of taxi drivers was gained by means of face-to-face interviews to share information about CSEC and its social and legal implications, stressing the criminal role of the accessory who provides information so that contact is established between tourists and victims. Also included were beach crafts workers, non-formal surfing instructors and beach masseurs, who took part in workshops during which the social and legal aspects of CSEC were examined*”¹⁶.

Similarly, in **Peru**, “with the purpose of combating and preventing the sexual exploitation of children in the city of Lima, the Ministry of Foreign Trade and Tourism, the NGO Alternative Human and Social Capital and the District Municipality of Miraflores (Lima), launched the **LIMA PROTECT ME** campaign in May 2013. The objective of this campaign is to raise awareness among suppliers of tourist services, such as accommodation providers, travel agencies, taxi driver associations and authorized street vendors, on the need to prevent the sexual exploitation of underage persons”¹⁷.

The message aimed at this sector is twofold: on the one hand, raise awareness to protect children; on the other, warn about the legal penalties to which individuals who infringe the law are exposed.

Mexico’s State Systems for the Comprehensive Development of Children (DIF, for its acronym in Spanish), for their part, have carried out information and awareness-raising campaigns targeting tourists, tourist industry workers and the local population in general, with the purpose of reducing the incidence of the CSEC-TT phenomenon in the locality. For example, the “*Protect my Dreams*” and “*From every Corner, Zero Tolerance for Child Sexual Exploitation in Tourism*” campaigns were implemented in the state of Quintana Roo, while “*Vallarta without CSE*” was carried out in the state of Jalisco. Similarly, of particular note were the efforts made in the state of Yucatán, where, with the purpose of preventing all offences committed against children, including sexual exploitation, a social awareness-raising campaign was carried out and citizens were trained in the development of skills to detect possible victims in their own families,

¹⁶ Information provided by the State.

¹⁷ Information provided by the State.

colonies or cities. To this end, included in this training and awareness-raising were canteen, bar, restaurant, and hotel staff, universities and social groups.

2.2.2. Code of Conduct

As we have said, another of the mechanisms used widely in the prevention of CSEC-TT is the adoption of a “Code of Conduct” on the part of tourist industry businesses, with the general objective of guiding and obtaining the commitment of the tourist industry in preventing, detecting and reporting the sexual exploitation of children, and developing socially responsible policies with regard to this issue, within their establishments and in their surroundings. **Five of the six countries studied have a Code of Conduct in place:**

- Brazil: *Declaration of Corporate Commitment to Confront Sexual Violence against Children*¹⁸.
- Colombia: Code of Conduct
- Costa Rica: *Code of Conduct for the Protection of Children from Commercial Sexual Exploitation related to Travel and Tourism*.
- Mexico: *National Code of Conduct for the Protection of Children in the Travel and Tourism Industry*.
- Dominican Republic: Code of Conduct

The original Code of Conduct was initially conceived and adopted by ECPAT Sweden and a group of Scandinavian tourist operators. It was subsequently propagated throughout the world. At present, the contents and means of implementing and monitoring the code of conduct vary from one country to another, depending on the specific characteristics of the phenomenon. However, the essential criteria and principles are the same (Sotelo et al, 2005: 5-6).

In **Costa Rica**, for example, the Code of Conduct arose as a result of “public-private coordination with the participation of the following stakeholders: - The Costa Rican Institute of Tourism (ICT): it adopted a Code of Conduct as an integral part of the sustainability programme the institution has been putting forward since 2010. - The National Chamber of Tourism (CANATUR, for its acronym in Spanish): in its capacity as tourist industry representative, it supports the implementation of the Code of Conduct as a result of an agreement reached with the ICT. - Paniamor Foundation: in its role of Executive Unit mandated by the ICT. - The Advisory Committee: the Costa Rican Association of Tourism Professionals (ACOPROT, for its acronym in Spanish), the Costa Rican Association of Tourist Operators (ACOT), the Costa Rican Association of Car Rentals (ACAR) and the Costa Rican Association of Hotels (CCH)”¹⁹.

¹⁸ Available from: http://empresascontraexploracao.com.br/declaracao_de_compromisso.pdf

¹⁹ Information provided by the State.

Similarly, **Brazil's** Declaration emerges within the context of the *Enterprises against Exploitation*²⁰ campaign launched by the Land of Men Brazilian Association (ABTH, for its acronym in Portuguese) and the National Committee to Confront Sexual Violence against Children, with the support of the Human Rights Secretariat of the Presidency of the Republic (SDH/PR), with the purpose of raising awareness among Brazilian businesses, and fostering the specific proposal and the strengthening of social responsibility initiatives, in order to safeguard the sexual rights of children and young people.



In every case, with the exception of Colombia, adherence to these Codes of Conduct is voluntary. In **Colombia**, however, it is compulsory for tourism industry businesses to adopt the Code in order to obtain authorization to operate. The Code holds enterprises accountable for the conduct of their dependent employees and/or service providers. It includes specific measures, such as controlling the accommodation of adults accompanied by children when there is no clear relationship between them, the obligation of reporting suspicious situations, and operating protocols for staff.

The Codes of Conduct of all of the States include a commitment to the implementation of a number of joint actions; namely:

- training and awareness-raising for staff, and in some cases, forming groups of officials trained in the detection of these practices, who will help to replicate their training among others.

For example, Mexico's National Code of Conduct includes among its guidelines: "2) *Train and sensitize personnel working in the company with regard to CSEC and the Code of Conduct*"²¹.

²⁰ See: Campaign to Confront Commercial Sexual Exploitation of Children:

www.empresascontraexploracao.com.br

²¹ From:

http://www.sectur.gob.mx/PDF/planeacion_estrategica/CodigoConducta_derechosninosCULTURATURIS TICA.pdf

- Communications campaigns targeting guests, with information about the legal framework that regulates paying children for sexual services and the adherence of the company to these ethical principles. Customers are warned that staff members are instructed to report any suspicious behaviour and request the intervention of the appropriate authorities.

For example, **Brazil's Declaration of Commitment** stipulates in its Article IV that businesses should: *"Inform their customers of the importance of promoting the human rights of children and young people, preventing sexual exploitation and publicizing, whenever possible, local reporting channels, particularly the Municipal Tutelary Councils and Dial Human Rights-Dial 100.*

- Communication and awareness-raising campaigns targeting providers and other production chain stakeholders. Contracts should include a clause rejecting these practices and undertaking to refrain from collaborating in them.

For example, **Mexico's National Code of Conduct** includes among its guidelines: 6) *Set up collaboration and promotion networks; 7) Inform customers and involve them in the Code of Conduct; 9) Replicate this commitment and the adoption of the Code of Conduct among all partners*²². For its part, **Brazil's Declaration of Commitment** includes in its Articles II and III: *"Systematically develop and implement specific and effective awareness-raising activities on the subject for their internal population and product chain, encouraging the report of any activity that implies the sexual exploitation of children"; "Whenever possible, include clauses in existing contracts with different areas of the production sector, which explicitly declare the rejection of any form of sexual exploitation of children and of any action or promotional material that may encourage it, including publicity."*

In addition to producing a Code of Conduct, some States have drafted informative material about it and guidelines for its implementation. For example, **Costa Rica** produced a *Guide for the implementation of the Code of Conduct for the Protection of Children from Commercial Sexual Exploitation related to travel and tourism in Costa Rica*. In **Brazil**, in order to help businesses implement actions to put the Declaration they adopted into effect, the *Enterprises against Exploitation* campaign also devised an *Action Plan*, which consists of a guide that provides some lines to approach discussion of the issue of child sexual exploitation within the business sector²³. The **Dominican Republic** brought out a brochure on *"Protecting Children from Sexual Exploitation in the Tourism and Travel Industry"*²⁴, a joint initiative undertaken by the Ministry of Tourism, the National Association of Hotels and Restaurants (ASONAHORES, for its acronym in Spanish), the Interinstitutional Commission against Abuse and Commercial

²² Ibid.

²³ Available from: http://empresascontraexploracao.com.br/downloads/cartilha_sugestoes.pdf

²⁴ Available from: http://www.unicef.org/republicadominicana/resources_25442.htm

Sexual Exploitation, and MAIS (an NGO that represents ECPAT in the Dominican Republic), with the support of UNICEF.

2.2.3 Formalizing and promoting decent work

As we have mentioned, informal economy activities frequently take place in the surroundings of tourist circuits or large enterprises, and they involve large numbers of children. These children come from vulnerable families and the activities they engage in increase their vulnerability by jeopardizing their schooling, bringing them too early into contact with adult activities and exposing them to different situations that affect their integrity, among them, sexual exploitation.

In this respect, some of the States whose experiences we have been examining are implementing actions tending towards the increase of labour regulation, particularly for work that involves persons under the age of 18.

One example of this is the *“Programme to Raise Awareness and Formalize Replication*, which is being carried out in **Mexico** through the Tourism Secretariat, in coordination with companies, tourist service provider associations and labour organizations. The programme seeks to urge tourist service providers to carry out their activities within the law, as well as generate appropriate and ethical practices that will promote the prevention of trafficking in persons, mainly with the purpose of sexual exploitation.

Brazil’s Action Plan includes among the activities it suggests to put the Declaration into effect: *“Adopt social projects with the purpose of promoting the human rights of child victims of sexual exploitation, such as the actions of non-governmental organizations engaged in confronting child and youth sexual violence, or the humanitarian care of victims, voluntary work projects, etc.”* In some cases, businesses include among their social responsibility actions, plans and programmes to improve the quality of life of communities, particularly that of children and teenagers, in an attempt to eliminate the different forms of child labour and encourage school attendance.

2.3. Protection

In the main, the countries of the Inter-American system with Spanish and Portuguese backgrounds do not include in their criminal codes a specific criminal offence that describes and penalizes conduct that is characteristic of “commercial sexual exploitation of children in travel and tourism”. These offences are usually punished in relation to the concept of prostitution, pornography, and trafficking in persons with the purpose of sexual exploitation.

Notwithstanding, Ms Najat Maalla M'jid, United Nations Special Rapporteur, has indicated that the States of Colombia, Peru, Honduras and Costa Rica have made progress in making provision for specific criminal offences, in order to punish the commercial sexual exploitation of children in travel and tourism.

Among the States participating in this study, **Colombia** has a special law that relates to the criminal offence of CSEC-TT: Law N° 679 of 2001, "*Statute to prevent and counteract exploitation, pornography and sex tourism involving minors in developing stages, Article 44 of the Constitution*". As a result of this law, the State can prevent, regulate and penalize natural or legal persons, nationals or foreigners, whose corporate purpose is related to providing services to tourists and who enter into conflict with the appropriate nature of this activity. In administrative terms, it provides for fines, and the suspension and termination of the licences of tourist operators who violate the provisions of this law.

In **Costa Rica**, the Act against Trafficking in Persons N° 9095, of 8 February 2013, stipulates in its Article 79, adherence to Article 162 A, under Title III, Chapter 1 of the Criminal Code, which refers to sex tourism: "*Article 162 A.- SEXUAL TOURISM: Whosoever should promote or undertake programmes, campaigns or advertising making use of any means to depict the country, nationally and internationally, as a tourist destination that is accessible to commercial sexual exploitation or the prostitution of persons of any sex or age shall incur the penalty of a term of imprisonment of between four and eight years*²⁵.

In **Peru**, "*the Criminal Code currently in force stipulates in Article 181-A*²⁶. **The commercial sexual exploitation of children in tourism.-** *Whoever should promote, publicize, further or facilitate commercial sexual exploitation in tourism, through any means such as in writing, brochures, printed matter, visual or aural material, electronic or magnetic means or through the Internet, with the purpose of offering commercial sexual relations with persons of fourteen and under eighteen years of age, will be sentenced to a term of imprisonment of not less than four nor more than eight years. Should the victim be under the age of fourteen, the perpetrator shall be sentenced to a term of imprisonment of not less than six nor more than eight years. Pursuant to Article 36, sub-sections 1, 2, 4 and 5, the term of imprisonment shall be not less than eight years nor more than ten, when the offence is committed by public authorities, their ascendants, teachers or persons who for whatever reason have had the victim under their care*²⁷.

²⁵ Patricia Hernández Sánchez, Technical Secretariat, National Commission against Commercial Sexual Exploitation, a presentation delivered at the: Fourth Sub-Regional Meeting on "Prevention, Protection and Restitution in the face of Trafficking and CSEC in Travel and Tourism: Experiences for Reflection". El Salvador, October 2013.

²⁶ Amended by means of the 3rd Provisional Regulation of Law N° 29408, the General Tourism Act, which increases the sentences.

²⁷ Information provided by the State.

In the **Dominican Republic**, *“the sexual exploitation of children is penalized by Dominican legislation with a term of imprisonment of up to 30 years. This applies to any person, business or institution that uses children in sexual activities; or aids, facilitates or covers for any other who commits this offence”* (UNICEF, 2013: 10).

In the matter of protection, cooperation between governments is key. As we have stated, in the case of CSEC-TT, offences are perpetrated by persons who are “in transit”. As they are often foreigners, they must be brought before the court in countries that they do not inhabit, or extradited during the course of judicial proceedings. Because of this, it is very necessary to apply extraterritoriality in order to enable States to punish their citizens for offences committed while they were abroad, as well as to ensure cooperation in conducting investigations and in judicial proceedings.

2.4. Recovery and reintegration

There are no references in the information compiled and remitted by the States, to interventions involving reparation specifically aimed at the victims of CSEC-TT.

It appears that forms of rights reparation do not provide for this specific form of exploitation and strategies employed are similar to those used in other modalities.

In relation to CSEC-TT specifically, we consider it necessary to reflect upon the role that enterprises in the tourist industry could play – in the context of their social responsibility policies – in procedures involving the care and recovery of victims, mainly at the stage of social and work reintegration.

2.5 Child Participation

On the occasion of the Third World Congress against Sexual Exploitation of Children held in Brazil in 2008, the Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents was adopted. Among the measures proposed to confront this form of exploitation, this document reaffirms *“Children’s right to express their views and have those views given due weight in all matters affecting their lives, including in all administrative and judicial proceedings”*. Similarly, States are recommended to:

“Mobilize communities, including children and adolescents with a view to engaging them in dialogue on and a critical review of social norms and practices and economic and social conditions that make children vulnerable to trafficking, and establish procedures that involve them in developing strategies and programmes where they

participate, where appropriate, in the planning, implementation and monitoring of such programmes.”

Some of the States include the children themselves in information and awareness-raising campaigns aimed at the community, warning them about the risks and temptations related to CSEC. On certain occasions, these issues are addressed in schools; in other cases, through partnerships with the children and youth organizations that take an active part in these campaigns.

In **Mexico**, for example, with the purpose of enabling children to participate in the prevention of trafficking in persons, the eleventh edition of the National Tourist Culture Children's Competition organized by the Tourism Secretariat will focus on preventing this phenomenon, with the motto: *“For our present and our future; tourism is united against trafficking in persons”*. The competition provides an opportunity to suggest through the medium of art, how tourism can unite against trafficking in persons. The strategy is used to encourage children to look after themselves and at the same time, establishes that it is a priority to protect children as a task that involves all residents in a country with enormous natural and cultural wealth, which both national and foreign tourists are attracted to.

PART IV

CONCLUSIONS AND RECOMMENDATIONS

It emerges from an examination of the material obtained that the six States included in this study are developing systematic actions tending towards the eradication of CSEC-TT in their territories, particularly in areas with a markedly high flow of tourists and travellers. While these actions are included among the actions against SEC in general, specific responses have been devised in keeping with the special features of this form of exploitation.

The actions, programmes and campaigns described display strong similarities across the six States, with certain peculiarities, but within the same general structure and with similar guidelines. An analysis of these strategies shows several aspects worth underlining:

- ✓ These actions and programmes include innovative features used to confront CSEC, some of which may provide lessons that can be applied to strategies devised to eradicate other forms of exploitation, be they sex or labour-related.
- ✓ In all of the States analysed there are cross-sectoral national commissions that guide the implementation of a National Plan against CSEC, which in some cases includes trafficking and other worst forms of child labour. These commissions

are formed by the traditional institutional stakeholders in this field, with the addition of the ministries or State agencies related to tourism and the ministries of labour. These ministries constitute institutional reference points within the State for tourist operators and enterprises and they are responsible under the rules that are applicable to these activities. Thus, the States acquire greater “institutional strength” to protect children from these forms of violation.

- ✓ This shows that lessons have already been learned (in most of the States in the region) with regard to the fact that CSEC-TT prevention policy should move beyond child-protection and crime control institutions in order to reach those sectors in which tourism and other related activities are organized and developed. This can be noted as a practice worth replicating in other forms of exploitation as it is a very good example of how important it is for commitment towards child rights to transcend child-related agencies and imbue the different areas of economic, social and cultural life, including the private sector and the communities themselves.
- ✓ A novel feature that appears to be consolidated in this field is the responsibility that the business sector – particularly in the tourist industry – has assumed in the evolution of public opinion in favour of society’s condemnation of payment for sex with persons under the age of 18. This has translated into implementing means of self-regulation, such as Codes of Conduct, supporting awareness-raising campaigns, training staff to detect and report suspicious situations they come into contact with and drafting protocols to cooperate with the authorities.
- ✓ In relation to regulatory matters, the States appear to have adopted two different positions. In some cases, there is no specific legislation covering CSEC-TT, so these offences are punished by applying general laws on the sexual exploitation of children. In others, the States have adopted specific regulations for this modality, which provide for some of its special features, such as the fact that perpetrators may be foreigners, the possibility of applying penalties that involve personal assets and the possibility of punishing citizens who commit these offences abroad.

The principal legal obstacle is that it is impossible to summon and try foreign citizens who are no longer in the country when judicial proceedings take place. Because of this, it is essential to promote the effective application of the Optional Protocol.

- ✓ While the relevance of the participation of children and youth organizations in confronting CSEC is widely accepted, as is the need to strengthen children so that they are able to face the possible dangers associated with these criminal

practices, informed action is limited and does not appear to promote the protagonism of children, restricting itself merely to awareness-raising.

An examination of the experiences makes it possible to identify a number of core ideas that underpin the actions that have been undertaken. Although the following is only a brief summary, we believe it may be useful to identify these ideas, inasmuch as they point to a possible way to eradicate CSEC entirely, let alone this specific modality. Core ideas:

- ✓ **Do away with the belief that paying for sex with an underage person is not a crime.** A key focus of campaigns against CSEC-TT is to make the population and possible consumers of sex with children aware of the fact that this is a punishable offence and that criminal penalties may be applied.
- ✓ Further to this, **modify social representations that depict tourist areas as “tolerance zones” where these practices are “naturalized”.** In this regard, efforts are made to show a community and an institutional system that are alert and watchful for the possibility of violations of their children’s rights.
- ✓ **Dismantle the image of tourists as “providers of money”, with the resulting legitimization of strategies devised by the population to gain access to these funds.** Tourists or travellers are guests who must be treated courteously and with respect, but at the same time, a similar level of respect should be demanded from them by the people and laws of the places they visit. The best way to preserve a tourist destination is not through tolerance and impunity, but through organized coexistence, in compliance with the law and with values that must be respected.
- ✓ **Generate the conviction that eradicating CSEC-TT in a specific tourist destination will benefit the entire community** and that because of this, communities should collaborate actively with the authorities and reject practices involving trading with child sex.

Recommendations

This study confirms the theory that analysing the practices that take place in the region is a valuable source of learning. It is, in fact, on the basis of these lessons learned that we are able to put forward some recommendations:

- ✓ **Eradicate the notion that the “good image” of a tourist destination is preserved by being silent and passive in the face of different forms of rights violations, particularly CSEC.** Associating a tourist destination with CSEC activities gives rise to the deterioration of its image and the loss of appeal for those forms of tourism that are unrelated to these activities.

- ✓ **Promote means of self-regulation** for different collectives whose activities bring them into contact with this issue. This is a highly advisable practice, as it involves all stakeholders and does away with the passive acceptance of these situations. The application of Codes of Ethics or Conduct can be included among these positive self-regulation experiences. In order to be more effective, such codes must include means of monitoring and following up on their implementation, and be borne in mind in the statutes of tourist corporations and the quality certification of services. State authorities should take these codes into account and encourage their adoption, for example, by the consideration of their existence when classifying services, or when offering tax benefits. This could also lead to the application of penalties for non-compliance.
Another recommendation along these lines is that the effect of these codes should extend beyond the signatories to their providers, hired services and other related activities in order to widen the scope of the effect of condemning these forms of violating child rights.
- ✓ **Sensitize and train workers and tourist service operators to detect CSEC situations.** It is important for businesses to cooperate in this by enabling the participation of their staff and sending a signal of the value they place on this training.
- ✓ **In relation to the monitoring of tourist services performed by State agencies, some States** carry out separate inspections. It is therefore advisable to **coordinate State control and even achieve unification, in order to increase the States' monitoring capacity in every aspect and throughout the whole extent of their territories.**
- ✓ A further advisable line of action is **to project the tourist industry as a source of quality employment that is accessible to the inhabitants of the community.** The desire to **gain access to the "world of wealth", together with the lack of "socially accepted access routes" gives rise to the search for "short cuts",** which include a variety of unlawful activities. In this respect, the tourist industry could become a system of opportunities for the local population, by offering training and jobs that comply with labour regulations and making it possible for people to improve their quality of life and overcome their vulnerability.
- ✓ The State, in coordination with the business sector, should **assume and manage the risk of rights violations involved in the organization of large events or infrastructure works that demand the transfer and temporary settlement of groups of workers.** Assuming and managing risk implies designing and

implementing child protection plans to minimize these risks and transform events into opportunities to raise awareness among the general population.

- ✓ We notice that despite the 25 years that have elapsed since the Convention on the Rights of the Child was first adopted and the guidelines issuing from the Rio Commitment (2008), the participation of children and their organizations in the discussion, analysis and determination of actions for the best protection of their rights is a course that has not yet been widely pursued. It is important for children and youth themselves to express themselves and mobilize for their rights. In this regard, it is advisable to **train operators and facilitators who are capable of promoting child participation, and on the basis of this, design and implement jointly with them activities intended to strengthen their capacity for self-protection from the risk of living in tourist enclaves or close to large labour-intensive enterprises.**
- ✓ **Use the new information technologies, particularly the Internet and social networks, to promote reflection, provide information and prevent commercial sexual exploitation** (including CSEC-TT), bearing in mind the ways in which children make use of them. An example of this is the *MEMES EVERYWHERE* project launched by Costa Rica and recognized to be one of the five best practices in Latin America for the eradication of child labour and its worst forms.
- ✓ Finally, it is important for international agencies to contribute to these actions by providing their systematization and impact evaluation, extracting lessons learned and training the different stakeholders in order to increase their capacity to face this form of violation of the rights of children.

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