

CHILD TRAFFICKING: INTERNATIONAL INSTRUMENTS TO PROTECT THE MOST VULNERABLE VICTIMS

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Trafficking in persons is the fastest growing form of organized crime, because it is less risky than drug or arms trafficking¹ and guarantees astonishing profits ranging between 8.5 and 12 billion Euros per year.² The new slave trade is related to extreme poverty, lack of access to resources, unemployment, and poor education, and because of the marginalization of women in society and the feminization of poverty, it obviously affects especially women and children. This article aims at investigating the phenomenon of child trafficking and the most common forms of exploitation and at reviewing the most significant international conventions and special mechanisms that guarantee the protection of child victims' basic human rights.

Keywords: *child trafficking; trafficking in persons; slavery and slave trade; new forms of slavery; sale of children; worst forms of child labor*

INTRODUCTION

This article aims at describing the phenomenon of child trafficking and exploring the international standards developed in the last decades for the protection of their human rights. The definition of trafficking in persons and, in particular, the one of child trafficking contained in the 2000 United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime is adopted as the basis of further consideration on the issue. According to the Protocol: "The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons.'"

The first part of the article will analyze trafficking in persons as one of the new forms of slavery-like practices, discussing its causes and the lack of reliable data. The second part will examine some forms of exploitation related to child trafficking—including commercial sexual exploitation, child labor, street begging, illegal adoptions, the involvement in armed conflicts, and trafficking in human organs—to better describe the phenomenon. Finally, the remainder of the article will deal with the international instruments fighting against trafficking in persons, the ones dealing with human rights protection, and some relevant UN special mechanisms that in the last decades pushed states to act against this flourishing illegal activity. Thus the principal conclusion of this article is that even if the protection of trafficked children is enhanced by some specific international conventions, such as the Convention on the Rights of the Child (CRC) and its two Protocols and the International Labour Organization (ILO) 182 Convention on the Worst Forms of Child Labour, much still needs to be done to enforce a "bill of rights for child trafficking victims" granting effective protection to child victims of this horrific practice.

IS SLAVERY STILL ALIVE? HUMAN TRAFFICKING AS ONE OF THE TWENTY-FIRST CENTURY'S NEW FORMS OF SLAVERY

All the states of the world have declared the abolition of slavery. Mauritania, which was the last one to do it, enacted legislation for this purpose in 1980.³ However, in the last decades, the persistence of a variety of “new” forms of slavery or servitude has been proved as their magnitude has increased.

Recent data show that, although the majority of victims are women and girls trafficked for commercial sexual exploitation, there are significant numbers of human beings trafficked for labour exploitation in domestic work, agriculture, construction, small manufacturing and other occupations in the informal economy. Data show the existence of trafficking of children for the purpose of international adoption or for sexual or labour exploitation. In recent times there have been reports of marketing of women and children via the Internet or in the guise of marriage brokering services and pen pal clubs.⁸

TRAFFICKING CAUSES: IS THERE A SOLUTION TO THE EXPLOITATION OF MAN OVER MAN?

It is widely accepted that poverty, hunger, lack of education, and lack of opportunities in the countries of origin are among the major causes of human trafficking. Furthermore, the marginalization of women in society and the feminization of poverty render women and children more vulnerable to being trafficked. However, there are also other factors contributing to the spread of the phenomenon; among them is globalization associated with increasing obstacles to legal migration that may push people in search of better life conditions in the hands of smugglers or traffickers who promise to get them to their desired destinations.⁹ Moreover, the profitability of this illegal activity for the human traffickers and the related impunity for their crimes, due in many cases to the victims being afraid to denounce them, do not help to enhance the fight against this new form of slavery.

Solutions to this sore are difficult to find; the first step should surely be the eradication of poverty, hunger and illiteracy, and the empowerment of women, which are three of the UN Millennium Development Goals. Their pledged achievement by 2015 would surely help in eradicating trafficking in persons as well.¹⁰

Furthermore, a lasting solution to human trafficking will not be found without an in-depth analysis of the “demand” issue: there would not be such a huge offer of trafficking victims to be subjected to several forms of exploitation if there was not a demand for their services. The system works well because customers buy sex services from trafficked girls or because employers find it more profitable to exploit trafficked children in their plantations or farms. The list of examples may be very long; however, they all demonstrate that trafficked victims have no rights and are completely subjugated to their exploiters, and this is the reason of the great demand for trafficked persons.

Finally, there is another issue that deserves consideration; as emphasized in many reports, corruption in the police, related to trafficking in persons, is a destabilizing factor in many countries of the world.¹¹ Obviously this is not helping to fight against the phenomenon and to make the victims trust the authorities, so that in many cases they are afraid to testify against their exploiters, because of the collusion of policemen with them.

THE ESTIMATES AND THE LACK OF DATA ON HUMAN TRAFFICKING

The exact number of people trafficked annually worldwide is unknown. The U.S. Department of State estimated in its 2005 Trafficking in Persons Report, that every year approximately 600,000–800,000 people, most of whom are women and children, are transnationally trafficked.¹² However, the figure regarding internal trafficking may be even higher. For the first time the estimates were also disaggregated: it emerges that 80% of the victims are women and young girls and 50% are children. Finally, according to the Report, sexual exploitation is the most widespread form of exploitation for trafficked victims.¹³

The ILO recently estimated the phenomenon too. According to its report, 12.3 million people are in forced labor;¹⁴ approximately 20% of them, that is to say 2.45 million, ended up in forced labor after having been nationally or transnationally trafficked.¹⁵ The ILO also estimated the sex division for sexual and labor exploitation, determining that women and girls are the majority of the victims in both cases; regarding the former, they represent 98% of the victims, while for the latter they represent 56%. With regard to children specifically, the ILO report emphasizes the difficulty in gathering data, because most of the sources do not specify the age of the victims; however, it is estimated that children represent between 40 and 50% of all the victims of forced labor.¹⁶ Even if these estimates cannot completely clarify the picture, they surely emphasize the magnitude of the phenomenon and the wide involvement of children in this new form of slavery.

THE FORMS OF EXPLOITATION RELATED TO TRAFFICKING IN CHILDREN

Child trafficking victims may be subjected to various forms of exploitation, such as: child prostitution and pornography; exploitative child labor including domestic servitude; debt bondage; street begging; involvement in illicit activities (e.g., drug trafficking); service in armed conflicts; illegal adoptions; and trafficking in organs. Most of the time, the form of exploitation to which children are subjected may depend on their age and gender.¹⁷ A brief summary of the most common forms of exploitation related to child trafficking follows.

THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

In most of the cases, trafficking in persons is related to the commercial sexual exploitation of the victims. This seems to be true worldwide. As the Special Rapporteur on Violence Against Women stated in her 2000 report on her mission to Bangladesh, Nepal, and India, forced prostitution is the primary goal of traffickers in that area.¹⁸ In the Mekong sub-region¹⁹ and in Europe²⁰ trafficking of young girls and women related to their sexual exploitation is flourishing too. Finally, internal and transnational trafficking in women and children for their commercial sexual exploitation is widespread as well in Central America and the Caribbean.²¹

Child trafficking for sexual exploitation may be linked with other phenomena, such as sex tourism, child prostitution, and pornography; as recently described by the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography: “Child pornography . . . involves sexual abuse and exploitation of children and is linked to child prostitution, child sex tourism and the trafficking of children for sexual exploitation.”²²

Finally, it is worth noting that usually some factors, such as the concentration of military forces in a specific area, can cause an increase in the demand for prostitution that may lead

to trafficking in women and young girls. This is what happened in Bosnia and Herzegovina, where the link between trafficking for the purpose of sexual exploitation and the presence of over 20,000 troops has recently been investigated and demonstrated.²³

CHILD LABOR EXPLOITATION

According to the ILO approximately 180 million working children between 5 and 17 years old are engaged all over the world in the worst forms of child labor, as described by ILO Convention 182. Of these, over 8 million are engaged in the so-called *unconditional worst forms of child labor*, including: “slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment for use in armed conflicts, prostitution and pornography, and illicit activities.” However, this figure has to be treated with caution, considering the hidden and illegal nature of such activities.²⁴

Trafficked children may be exploited as domestic servants or made to work in agricultural plantations, in mines, or in the informal sector. Young girls are usually employed as domestic servants; this is, for example, the case for girls trafficked from Benin to Gabon.²⁵ Many of these children are sent by their families to work as domestic servants when they are very young; thus they are more vulnerable to every form of exploitation and harassment. Local culture and traditions may also contribute in determining children’s vulnerability to be trafficked; an example is the African tradition of “confiding children,” that is, sending them to stay with other families to have the opportunity to receive an education in exchange for domestic work.

As regarding boys, the trafficking in young children from Mali to Côte d’Ivoire, where they work on cocoa plantations, is widely known.²⁶ According to Anti-Slavery International, the denunciation of this phenomenon led the industry to establish links with trade unions, nongovernment organizations (NGOs), and the government; however, it is still too early to assess the possible positive effects on child trafficking.²⁷

Another widely denounced form of labor exploitation that spread mainly in the Gulf States is the use of minors in illegal camel races. Children as young as 4 years old are mainly trafficked from South Asia and they are used as camel jockeys.²⁸ Apart from the deprivation of their childhood, these children may even risk dying from falling from a camel. The practice is illegal in the United Arab Emirates; however, the seriousness of the situation has been demonstrated by the number of communications recently sent to the Bangladeshi and United Arab Emirates’ governments on specific cases known by the Special Rapporteur on the Sale of Children, Juan Miguel Petit.²⁹

Finally, what seems to be “a new form of labor exploitation” is the recruitment of talented children by football agents to eventually make profits selling them to big football clubs. The Special Rapporteur on the Sale of Children recorded the existence of this form of exploitation during her visit to Belgium in 1998.³⁰ Moreover, UEFA’s chief executive, Lars-Christer Olsen, recently affirmed that an investigation on this phenomenon has been launched.³¹

STREET BEGGING

Street begging may also be a form of exploitation related to trafficking. In her 1999 Report, the Special Rapporteur on the Sale of Children, Ofelia Calcetas-Santos, acknowledged the existence of trafficking for the purpose of street begging throughout the Mekong region, mainly from Cambodia to Thailand.³² She even expressed the fear that some children had been mutilated in order to bring more money to their traffickers.³³

ILLEGAL ADOPTIONS

The high requests for adoptions of babies in some wealthier countries, such as the United States, Canada, or some European states, may also lead to trafficking in children. As the Special Rapporteur on the Sale of Children emphasized in her report on her mission to Guatemala in 1999: “[L]egal adoption appears to be the exception rather than the rule. Since huge profits can be made, the child has become an object of commerce rather than the focus of the law.”³⁴ The trafficking process is made easier by the recent armed conflict that occurred in the country and that left 150,000 orphans and 50,000 widows, mostly among indigenous people,³⁵ and by the fact that many children are not registered.³⁶ The collapse of the communist system and the overthrow of Ceausescu in 1989 were among the main causes that led to an astonishing increase in intercountry adoptions in Romania; also in this case, as the Special Rapporteur on the Sale of Children declared, some of these children have been adopted in “suspicious circumstances.”³⁷

Finally, the Special Rapporteur on Violence Against Women recently acknowledged that a trafficking ring is transporting babies by boat from Indonesia to Malaysia or Singapore. The Malaysian and Indonesian police recorded 179 cases of trafficking in babies in 2001 and 155 cases in 2002.³⁸ It is worth noting that in all these cases the two UN Special Rapporteurs seem to refer to the practice of illegal adoptions as “human trafficking” without any further verification on the exploitation of the babies/children involved; that is one of the elements required by the UN Trafficking Protocol’s definition.

CHILDREN INVOLVED IN ARMED CONFLICTS

The Coalition to Stop the Use of Child Soldiers estimated in 1998 that up to 300,000 children worldwide are believed to be involved in armed conflicts and obliged to take a direct part in the hostilities or to perform other related activities.³⁹ Armed groups may abduct children, but there are also cases in which minors may join them voluntarily, pushed by hunger, fear, and willingness to react to the suffered violence and to find protection. Poverty and the lack of education are among the main causes that lead children to join armed groups.⁴⁰

Usually young boys are used as messengers or spies, because of their agility and the possibility for them to penetrate the enemy lines, as porters to carry provisions and munitions, and even in direct hostilities. On the other hand, girls are exploited as cooks and sexual slaves for soldiers and they may be involved in direct hostilities as well. Minors are exposed to injuries and death, and even if they survive they will bear the traces of the physical and psychological violence they suffered for the rest of their lives. In addition to this, girls suffer from any form of gender violence; it is very difficult for them to be reintegrated in society and most of the time they lack the assistance they would need.⁴¹

TRAFFICKING IN HUMAN ORGANS

There are rumors that all around the world an illegal trade in human organs is flourishing. People looking for lungs, kidneys, hearts, corneas, skin, and livers, who live in countries where there is a shortage of organs, can easily buy them from the poorest and most desperate people in the world. Disposable persons flying from Moldova to the United States may sell one kidney for as much as 10,000 U.S. dollars. The demand is very high considering that 86,000 Americans are waiting for organ transplantation.⁴²

The phenomenon seems also to exist in many other countries of the world. In India, for example, 64% of all the renal transplants are done from unrelated donors who simply testify to their “emotional closeness” to the person needing the organ,⁴³ while in China, the organs of executed convicts are believed to be sold to foreign buyers.⁴⁴

The Special Rapporteur on the Sale of Children has intervened on this issue many times; in his 1994 report, Vitit Muntarbhorn acknowledged that there is evidence proving that trafficking in adult organs is spread in various parts of the world; the same could not be said at that time for what concerns the existence of a market for children’s organs.⁴⁵ Five years later, Ofelia Calcetas-Santos stated that she:

has received allegations that street children in Argentina, Brazil, Colombia, Honduras, Mexico and the Russian Federation are being killed so that their organs can be used in transplant operations. Such allegations have recurred repeatedly for over 20 years, but to the best of the Special Rapporteur’s knowledge, nobody has been convicted of being connected with such an offence.⁴⁶

Finally, in 2001, the Working Group on Contemporary Forms of Slavery was informed that the mutilated bodies of some children were found in India and an adoption agency was under investigation for selling their organs.⁴⁷ There is no accurate information on the cases reported and it is questionable for all the cases known to be considered as human trafficking. According to the UN Trafficking Protocol, regarding children, only those who undergo the “recruitment process” can be considered to be trafficking victims. Moreover, the UN Trafficking Protocol makes reference to the removal of organs but it does not mention trafficking of tissues—such as skin, bones, cartilage, ligaments, and corneas—that, thanks to the recent advancement of surgical technology, can be transplanted to solve a wide range of problems.

THE INTERNATIONAL ACTION AGAINST SLAVERY, THE SLAVE TRADE, AND TRAFFICKING IN PERSONS

In human history there are many examples of societies that were founded on slavery and on the exploitation of some people who were considered inferior by others. The ancient Greeks practiced slavery and considered it morally acceptable. The famous philosopher Aristotle said about slavery: “It is thus clear that, just as some are by nature free, so others are by nature slaves, and for these latter the condition of slavery is both beneficial and just.”⁴⁸ It was only many centuries later that slavery and the slave trade started to be considered as an immoral practice that had to be abolished. Between 1839 and 1890 more than 300 international agreements to abolish slavery and the slave trade were adopted, but none of them was effective.⁴⁹

After the First World War the establishment of the League of Nations had to guarantee peace and to prevent the outbreak of another catastrophic war. The organization did not succeed in guaranteeing stability to the world, nevertheless it paved the way for the international abolition of slavery and the slave trade. The 1926 Slavery Convention⁵⁰ is the most important attempt made by the League of Nations to fight against the two related phenomena and it is also the first international instrument that defines them as being:

- (1) Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. (2) The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts

involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.⁵¹

The language used in the Convention to refer to the two phenomena is, however, slightly different; while it requires the states parties to “prevent and suppress” the slave trade, it only asks them to “bring about, *progressively and as soon as possible*, the complete abolition of slavery in all its forms.”⁵² For this purpose, states have to prevent the transportation of slaves on vessels flying their flags,⁵³ and they shall assist one another to succeed in the abolition of slavery and the slave trade.⁵⁴ Mention is made of compulsory or forced labor in Article 5 to prevent it from degrading in conditions analogous to slavery.

The 1926 Convention was an important step forward, even if it did not lead to a complete abandonment of the two practices, mostly because it did not establish a permanent monitoring body. The states parties had only a mere duty to communicate to each other and to the Secretary General of the League of Nations, the provisions adopted to comply with the Convention.⁵⁵

Subsequently, the UN expanded the definition of slavery, adopting a new treaty supplementing the 1926 Convention on Slavery. The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery was adopted in 1956, and it included in the definition of slavery: debt bondage, serfdom, and any other institution or practice whereby a woman or a child may be transferred by a person to another.⁵⁶

Finally, in 1970 the International Court of Justice in the *Barcelona Traction* case traced a long-lasting distinction between international obligations of states, declaring that:

[A]n essential distinction should be drawn between the obligations of a State towards the international community as a whole, and those arising vis-à-vis another State in the field of diplomatic protection. By their very nature the former are the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; their obligations are *erga omnes*.⁵⁷

The court included the protection from slavery⁵⁸ among the international obligations of states toward the international community. Consequently, it can be considered as a *jus cogens* principle.⁵⁹

THE FIGHT AGAINST THE “WHITE SLAVE TRAFFIC” AND TRAFFIC IN PERSONS

At the beginning of the twentieth century the phenomenon known as “the white slave traffic” was widespread in the world. It consisted of the abduction of women and young girls who were transported abroad—in many cases with false job offers—and forced to prostitute themselves. Four international conventions were adopted in less than 20 years to abolish this phenomenon: the 1904 International Agreement for the Suppression of the White Slave Traffic,⁶⁰ amended by its 1948 Protocol, the 1910 International Convention for the Suppression of the White Slave Traffic,⁶¹ the 1921 International Convention for the Suppression of the Traffic in Women and Children⁶² and, finally, the 1933 International Convention for the Suppression of the Traffic in Women of Full Age.⁶³ As the Special Rapporteur on Violence Against Women stated in her 2000 Report on Trafficking in Women, Women’s Migration and Violence Against Women, they were all ineffective.⁶⁴

In 1949, the UN drafted the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others that consolidated and extended the scope of

the four previous international agreements on the white slave traffic.⁶⁵ This Convention takes a step forward in so far as it makes reference not only to women and children, but more generally to persons, thus including also men and young boys. However, it does not give a definition of trafficking in persons, and, as in the previous conventions, it only refers to trafficking for the purpose of prostitution, thus limiting its sphere of application to this specific form of exploitation. Finally, the 1949 Convention adopts an abolitionist model to manage prostitution, acknowledging that both prostitution and trafficking in persons for the purpose of prostitution are incompatible with the dignity of the human person and thus prohibiting and punishing trafficking and exploitation of others for prostitution.⁶⁶ Many states preferred to adopt or maintain other models of regulating prostitution; for this reason the Convention has not been widely ratified.

Other lacunae of the 1949 Convention were emphasized by the Special Rapporteur on Violence Against Women, Radhika Coomaraswamy, in her 2000 report. As she stated, the 1949 Convention does not consider trafficking as a human rights issue and has not served to protect victims' human rights and fight against this new form of slavery.⁶⁷ Thus, the need for a new international agreement dealing with the issue of trafficking in human beings was widely felt.

THE UN TRAFFICKING PROTOCOL

It was only in 2000 that the phenomenon of trafficking in human beings was regulated by the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,⁶⁸ supplementing the UN Convention against Transnational Organized Crime.⁶⁹ Article 3(a) of the UN Trafficking Protocol defines human trafficking as:

[T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The UN Trafficking Protocol outlines that if one of the means set forth in Article 3(a) is used, it is irrelevant whether the person expressed his/her consent or not.⁷⁰

This new treaty has also been criticized for two elements that may narrow the definition of trafficking: the fact that the activity must be carried out by organized criminal groups and that it should be transnational in its nature.⁷¹ The conclusion would be that internal trafficking with no transnational element, and trafficking—internal or international—not committed by an organized criminal group would both be excluded from the UN Trafficking Protocol. However, the Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, recently elaborated in the framework of the UN, clarified that: “[T]he Trafficking in Persons Protocol also applies to the protection of victims regardless of transnationality and involvement of an organized criminal group.”⁷²

Article 3(c) of the UN Trafficking Protocol specifically defines child trafficking as the recruitment, transportation, transfer, and harboring of a minor for the purpose of exploitation, even if none of the means set forth in Article 3(a) are used. Moreover, according to the *Travaux Préparatoires*, the financial or material benefit that the traffickers wish to obtain should be

interpreted broadly; thus “sexual gratification” of pornographers and pedophiles shall be considered as included in the “benefits” mentioned in the trafficking definition.⁷³ On the other hand, the removal of organs from a child, with the consent of a parent or of a guardian, done for legitimate medical or therapeutic reasons, is beyond the scope of the UN Trafficking Protocol, while illegal adoption, as defined by Article 1.(d) of the Supplementary Convention on the Abolition of Slavery, falls within it.⁷⁴ The Legislative Guide confirmed the broad interpretation given by the *Travaux Préparatoires* for what constitutes child trafficking.⁷⁵

The UN Trafficking Protocol is a multifaceted instrument aimed at preventing human trafficking, protecting victims’ human rights, and prosecuting traffickers. Thus, it provides for states parties to criminalize trafficking in human beings and to punish the attempt to commit, take part in, or organize offenses related to it.⁷⁶ Specifically regarding the protection of child trafficking victims, specific provisions are contained in Section II, entitled “Protection of Victims of Trafficking in Persons,” that includes Articles 6, 7, and 8 of the Protocol.

According to Article 6, states parties should consider protecting the identity and privacy of victims of trafficking, guaranteeing them physical, psychological, and social assistance and the opportunity to find employment and attend professional courses. Articles 7 and 8 suggest that states parties adopt measures to guarantee trafficking victims the right to remain within their territory temporarily or permanently or to return to the state of nationality or of permanent residence. The only specific reference to children’s rights is contained in Article 6.4 of the Protocol, which emphasizes that, in granting assistance and protection to trafficking victims, special attention should be paid to children, especially for housing, education, and care.

The Legislative Guide emphasizes that some of these measures are to be considered mandatory, while others are only optional. Among the latter there are Article 6, paragraphs 3 and 4 on social assistance, protection of victims, and the special needs of children, and Article 7 on the status of victims.⁷⁷ As it is explained: “[T]he high costs of these benefits and the fact that they apply equally to all States parties in which victims are found, regardless of the level of socio-economic development or availability of resources, precluded these from being made obligatory.”⁷⁸

Regarding child trafficking victims, the Legislative Guide suggests the appointment of a guardian who should accompany them throughout the entire process.⁷⁹ Moreover, children who agree to testify should be accorded special protection,⁸⁰ and all the efforts should be made to avoid their revictimization, including placing them in a safe and suitable accommodation with skilled people taking care of them.⁸¹ Moreover, children should not be returned to their country of origin, unless it is safe and in their best interest, and a member of their family or a government agency is actually able to take care of them.⁸² In cases in which it is not safe or it is not in the best interest of the child to return to his/her country of origin, the child should be under the responsibility of the country of destination’s welfare authority. However, agreements between the authorities of the country of origin and the ones of the country of destination are welcome to assess the situation of the child and to conduct a thorough inquiry.⁸³

Furthermore, the UN High Commissioner for Human Rights adopted in May 2002 an international *soft law* instrument focused on the protection and assistance to trafficking victims.⁸⁴ The Recommended Principles and Guidelines on Human Rights and Human Trafficking are considered as a basic reference by the new Special Rapporteur on Trafficking in Persons,⁸⁵ because they may help “to provide practical, rights-based policy guidance on the prevention of trafficking and the protection of trafficked persons and with a view to facilitating the integration of a human rights perspective into national, regional and international anti-trafficking laws, policies and interventions.”⁸⁶

Recommended Principle 10 deals specifically with the protection of minors. It states that: “Children who are victims of trafficking shall be identified as such. Their best interests shall be considered paramount at all times. Child victims of trafficking shall be provided with appropriate assistance and protection. Full account shall be taken of their special vulnerabilities, rights and needs.”

Moreover, Guideline 8 gives to states hints on how to practically deal with a case of child trafficking: they should rapidly try to identify child victims and, if they are unaccompanied, find members of their families; they should not subject them to criminal procedures or sanctions for offenses they may have committed and that were directly related to their condition of trafficking victims; they should protect the privacy and identity of child victims and grant them appropriate physical, psychosocial, legal, educational, housing, and health care assistance; children’s rights should be protected in all the stages of criminal proceedings; and, lastly, in cases in which it may not be in the best interest of the minor to be reunited with his/her family, other care arrangements should be identified. Finally, as also declared by Article 12 of the CRC, minors should enjoy the right to express their views freely in all matters affecting them.

THE UN HUMAN RIGHTS INSTRUMENTS AND THE FIGHT AGAINST TRAFFICKING IN PERSONS

Reference to the abolition of slavery, the slave trade, and trafficking in persons is also made in some international conventions on the protection of human rights. The 1948 Universal Declaration of Human Rights outlines at Article 4 the abolition of slavery and the slave trade,⁸⁷ although it does not mention trafficking in persons. Article 8 of the 1966 International Covenant on Civil and Political Rights (ICCPR) declares the abolition of slavery and the slave trade and the prohibition of servitude and forced or compulsory labor.⁸⁸ Moreover, according to Article 4.2 of the ICCPR, this provision is a nonderogating one, so that even in a situation of public emergency that threatens states parties’ existence, they cannot derogate it. No mention is made of trafficking in persons in Article 8; however, the Human Rights Committee,⁸⁹ which is the body of 18 independent experts that monitors the implementation of the ICCPR, interpreted this provision as including the fight against trafficking in women and children and victims’ protection. Thus, in its General Comment 28 on Article 3 of the ICCPR it declared:

Having regard to their obligations under article 8, States parties should inform the Committee of measures taken to eliminate trafficking of women and children, within the country or across borders, and forced prostitution. They must also provide information on measures taken to protect women and children, including foreign women and children, from slavery, disguised inter alia as domestic or other kinds of personal service. States parties where women and children are recruited, and from which they are taken, and States parties where they are received should provide information on measures, national or international, which have been taken in order to prevent the violation of women’s and children’s rights.⁹⁰

In 2003, for example, the Human Rights Committee made observations to Mali,⁹¹ Sri Lanka,⁹² and the Philippines⁹³ to underline the need to eradicate child trafficking as part of their obligations under Article 8 of the ICCPR.

The 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) does not contain measures on the abolition of slavery or on trafficking in persons.⁹⁴ However, the Committee on Economic, Social and Cultural Rights, the body that monitors

the implementation of the ICESCR by states parties, also made reference to this new form of slavery in its comments on states' reports. For example, in its 2002 comments on the reports of the Czech Republic,⁹⁵ Slovakia,⁹⁶ and Benin,⁹⁷ the Committee on Economic, Social and Cultural Rights expressed concern about child trafficking in these countries.

Finally, the 1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)⁹⁸ declares at Article 6: "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."⁹⁹ Its monitoring body, the Committee on the Elimination of Discrimination against Women, examines states parties' reports on their compliance with the Convention.¹⁰⁰ According to the Optional Protocol to the CEDAW, it may also receive written and nonanonymous communications submitted by or on behalf of individuals or groups of individuals, claiming the violation of one of the rights declared in the CEDAW.¹⁰¹ Like other monitoring bodies, the Committee on the Elimination of Discrimination against Women expressed concern and made recommendations to states parties on trafficking in women and young girls, as well.

THE CRC AND ITS PROTOCOLS

The CRC is the international instrument with the highest number of ratifications.¹⁰² It is also the main reference regarding the situation of trafficked children,¹⁰³ considering that its provisions are dealing with the illicit transfer of children abroad, their exploitation, and trafficking. Article 11 promotes bilateral and multilateral agreements to fight against the illicit transfer and nonreturn of children. Articles 32, 34, and 36 emphasize that children must be protected from every form of economic, sexual, or any other kind of exploitation. Article 39 recognizes the right of children to physical and psychological recovery and social reintegration in case they have been subjected to any forms of exploitation or abuse. However, the most important provision is Article 35 that obliges states parties to: "[T]ake all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form."

The Committee on the Rights of the Child monitors the implementation of the CRC and of its two Protocols, by the states parties that submit to this body their reports on the progress made in the recognition of the rights granted by the CRC and the Protocols.¹⁰⁴ Like other treaty bodies, the Committee on the Rights of the Child emphasized the need to fight against child trafficking many times in its recommendations and observations on states parties' reports.

The Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography

The two Protocols to the CRC were adopted by the UN General Assembly on May 25, 2000.¹⁰⁵ The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography was the first one to come into force on January 18, 2002.¹⁰⁶ However, the Optional Protocol on the Involvement of Children in Armed Conflicts shortly followed, entering into force on February 12, 2002.

Article 3.1 of the Protocol on the Sale of Children calls on states parties to criminalize the domestic or transnational sale of minors committed by an individual or by an organized group for the purposes of sexual exploitation, removal of organs, forced labor, or illegal adoption. Furthermore, Articles 8, 9, and 10 provide for victims' assistance, prevention policies and international cooperation and coordination among states, international organizations, and NGOs.

The Optional Protocol on the Involvement of Children in Armed Conflicts

The Protocol to the Convention on the Rights of the Child Dealing with the Involvement of Children in Armed Conflicts contains specific measures on the recruitment and abduction of child soldiers.¹⁰⁷ It does not contain any explicit reference to trafficking in minors, but its Article 4 states that: “Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.” Moreover, Article 4.2 imposes on states parties the duty to take “all feasible measures” to fight against the recruitment of child soldiers, prohibiting and criminalizing it.

Regarding the rehabilitation of child victims of this terrible form of exploitation, Article 6.3 provides for states parties to assist them in their physical and psychological recovery and social reintegration in society, and Article 7.1 obliges them to cooperate to succeed in this goal.

THE UN SPECIAL MECHANISMS AND THE FIGHT AGAINST TRAFFICKING IN CHILDREN

Some UN special mechanisms have also recently acted in the framework of their mandates to raise awareness on trafficking in persons and, in some cases, specifically on child trafficking. These bodies are: the Special Rapporteur on the Sale of Children, the Special Representative of the Secretary General on the Involvement of Children in Armed Conflicts, the Special Rapporteur on Violence against Women, and the recently nominated Special Rapporteur on Trafficking in Persons.

THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

In 1990, the Commission on Human Rights appointed the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography.¹⁰⁸ Every year the Special Rapporteur submits a report dealing specifically with a particular issue. In 1999, the report was dedicated to the sale and trafficking in children. The Special Rapporteur emphasized in this report that “in most cases where there is sale there is also trafficking involved.”¹⁰⁹ Reference to child trafficking was also made in other annual reports and in the ones on the country visits conducted by the Special Rapporteur.

THE SPECIAL REPRESENTATIVE OF THE SECRETARY GENERAL FOR CHILDREN AND ARMED CONFLICTS

A special mechanism exists also for the issue of children involved in armed conflicts, even if it is directly linked to the Secretary General of the UN. In 1993, on the basis of a recommendation of the Committee on the Rights of the Child, the General Assembly recommended to the Secretary General to appoint an independent expert to conduct a study on the impact of armed conflicts on children. Graça Machel, the expert of the Secretary General, submitted her report in 1996; on its basis the General Assembly recommended the Secretary General to appoint a Special Representative for Children and Armed Conflicts.¹¹⁰ The Secretary General appointed Olara A. Otunnu in 1997; his mandate ended in 2005 and Karin Sham Poo was appointed as Interim Special Representative. In the meantime, according to Security Council Resolution n. 1612 of 2005, the Secretary General will establish a monitoring and reporting mechanism.¹¹¹

THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES

The Commission on Human Rights appointed in 1994 a Special Rapporteur on Violence Against Women, its Causes and Consequences.¹¹² The Special Rapporteur may receive individual complaints from individuals, undertake country visits, and submit thematic annual reports to the Commission on Human Rights. In February 2000, she submitted a thematic report dealing specifically with trafficking in women, women's migration, and violence against women.¹¹³ This report was very important because it reviewed international law to fight against trafficking in persons and defined the phenomenon before the adoption of the UN Trafficking Protocol in December 2000.¹¹⁴ With regard to children, she recognized that: "[T]he phenomenon of trafficking in children needs different, child-specific remedies that are likewise gender-specific."¹¹⁵

The Special Rapporteur also conducted some country visits dealing specifically with the issue of trafficking in women: in 1996 she visited Poland,¹¹⁶ and 4 years later she went to Bangladesh, Nepal, and India.¹¹⁷ Mention to trafficking is also made in the two recent reports of the Special Rapporteur on her country visits to Guatemala¹¹⁸ and El Salvador.¹¹⁹

THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN

In November 2004, the Commission on Human Rights appointed Sigma Huda from Bangladesh as the first Special Rapporteur on Trafficking in Persons. The mandate of the new Special Rapporteur will expire in 2007.¹²⁰

In her first Report on Trafficking in Persons, especially Women and Children, submitted to the Commission on Human Rights only one month after her appointment, the Special Rapporteur underlined that she will perform her mandate, putting the human rights and dignity of trafficked persons at the center of her actions.¹²¹ On the contrary, she believes that trafficking in persons is mainly perceived and treated by many states as a "law and order" problem, with no focus on the protection of victims' human rights.¹²²

She also emphasized her will to devote special attention to the situation of trafficked children.¹²³ This issue will be analyzed separately in future reports, to formulate specific recommendations for states on how to better protect the human rights of minors who are victims of human trafficking.¹²⁴

THE ILO CONVENTION 182 ON THE WORST FORMS OF CHILD LABOUR

The ILO Worst Forms of Child Labour Convention, better known as the ILO Convention 182,¹²⁵ defines the worst forms of child labor as including:

- (a) [A]ll forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflicts; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.¹²⁶

Articles 5, 6, and 7 of the ILO Convention 182 provide for states parties to eliminate the worst forms of child labor and to develop a monitoring mechanism for the relevant national provisions implementing the Convention, including the application of penal sanctions. Moreover, states parties shall adopt measures designed to: prevent child engagement in the worst forms of child labor, provide assistance with the aim of avoiding minors being exploited, guarantee their rehabilitation and social integration, including their access to free education, and, finally, take into special consideration the situation of children at risk and of young girls. Article 8 provides for interstate cooperation in implementing the Convention, including the adoption of programs to enhance social and economic development, to eradicate poverty, and to spread child education.

According to Article 22 of the ILO Constitution, ILO member states are required to report to the Committee of Experts on the Application of Conventions and Recommendations (CEACR) on the implementation of the ILO Conventions that they decide to ratify.¹²⁷ It is worth noting that in its 2004 Observations to 20 states parties to the ILO Convention 182, the CEACR made comments specifically dealing with trafficking in children to 16 of them.¹²⁸

CONCLUDING REMARKS

This article analyzed the phenomenon of trafficking in persons, describing some of its causes and discussing the estimates and the lack of data on this phenomenon. It then focused on child trafficking, enlisting the most common forms of exploitation that minors may be subjected to. Finally, it dealt with the international instruments developed to fight against the phenomenon. The analysis showed that the main international instrument dealing with trafficking in persons, namely the UN Trafficking Protocol, is relatively new compared to the old conventions on slavery, the slave trade, practices similar to slavery, and the traffic in women for the purpose of prostitution.

The UN Trafficking Protocol dedicates three articles to the protection of trafficking victims. However, it has been supplemented by the Recommended Principles and Guidelines that put the human rights of the victims at the center of any action in the field of trafficking in persons. Even if they are a *soft law* instrument, the Special Rapporteur on Trafficking in Persons declared that they are the basic reference for the protection of trafficking victims' human rights.

Moreover, child victims of trafficking are granted specific protection on the basis of the provisions contained in the CRC and in its two Protocols and in the ILO Convention 182.

Finally, the action of four UN special mechanisms was taken into consideration in so far as they are acting to enhance the protection of the human rights of trafficked children, raising awareness on the issue and putting pressure on states to act, eliminating this abusive form of exploitation of minors and assisting those affected by it.

NOTES

1. Press Release, OSCE, *Human Trafficking: Fastest Growing Form of Organized Crime, Mr. Arlacchi tells OSCE Council* (Nov. 1, 2001), available at <http://www.osce.org/item/6367.html> (last visited Jan. 16, 2006).

2. Europol, *2004 European Union Organised Crime Report 12* (Dec. 2004), at <http://www.europol.eu.int/publications/EUOrganisedCrimeSitRep/2004/EUOrganisedCrimeSitRep2004.pdf> (last visited Jan. 16, 2006).

3. A year later Mauritania passed another law stating that all the slaves had to be freed and become full citizens.

4. Debt bondage is very common in South Asia, mainly in India and Pakistan, where 20 million people are estimated to be bonded in labor.

5. The International Labour Organization has subdivided forced labor in three subcategories comprehending: 1. forced labor imposed by the state or by armed forces (2.5 million people); 2. forced commercial sexual exploitation (1.4 million people); and 3. forced labor for economic exploitation (7.8 million people). See Patrick Belser, *Forced Labour and Human Trafficking: Estimating the Profits*, working paper (International Labour Office Mar. 2005), available at http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=5081 (last visited Jan. 16, 2006).

6. Two examples of religious practices leading to forms of slavery are: the Devadasi in India and the Trokosi in West Africa.

7. It is not a very common practice nowadays; however, it still exists in Mauritania and in some other countries of Northern Africa.

8. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children*, 61st Sess., Agenda Item 12, at 5, § 8, U.N. Doc. E/CN.4/2005/71 (2004) [hereinafter *Special Rapporteur on Trafficking in Persons*].

9. On these issues see LAUREN B. ENGLE, *THE WORLD IN MOTION: SHORT ESSAYS ON MIGRATION AND GENDER* 63 (International Organization for Migration, 2004); Christien van den Anker, *Contemporary Slavery, Global Justice and Globalization* 15, 26–27, in CHRISTIEN VAN DEN ANKER, *THE POLITICAL ECONOMY OF NEW SLAVERY* (Palgrave Macmillan ed., 2004).

10. For more information see <http://www.un.org/millenniumgoals/> (last visited Jan. 16, 2006).

11. As an example, the *Special Rapporteur on Violence against Women, its Causes and Consequences*, [hereinafter the *Special Rapporteur on Violence against Women*] Ms. Radhika Coomaraswamy, [UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, Ms. Radhika Coomaraswamy, in *Accordance with Commission on Human Rights Resolution 2000/45—Addendum—Mission to Bangladesh, Nepal and India on the Issue of Trafficking of Women and Girls*, 57th Sess., Agenda Item 12(a), at 4, U.N. Doc. E/CN.4/2001/73/Add.2, (2001)] stated that: “Corruption in the police seems to be a significant problem in all the countries of the region, especially in the area of trafficking.”

12. UNITED STATES DEPARTMENT OF STATE, *TRAFFICKING IN PERSONS REPORT 6* (U.S. Department of State, June 2005), available at <http://www.state.gov/documents/organization/47255.pdf> (last visited Jan. 16, 2006). These estimates have reshuffled the problem in comparison to the ones pointed out in previous reports: the U.S. Department of State stated in its 2001 Report that the victims of transnational trafficking are at least 700,000; its 2002 Report took the latter estimate as the minimum to emphasize that up to 4,000,000 people may be trafficked annually across international borders; its 2003 report diminished the estimate to approximately 800,000–900,000; and finally, the 2004 and 2005 reports present the same estimates.

13. *Id.* at 6.

14. PATRICK BELSER ET AL., *ILO MINIMUM ESTIMATE OF FORCED LABOUR IN THE WORLD 1* (International Labour Office 2005), available at http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=5073 (last visited Jan. 16, 2006).

15. *Id.* at 4.

16. *Id.* at 6.

17. MIKE DOTTRIDGE, *KIDS AS COMMODITIES? CHILD TRAFFICKING AND WHAT TO DO ABOUT IT* 23 (International Federation *Terre des Hommes*, May 2004), available at http://www.stopchildtrafficking.org/site/fileadmin/stopchildtrafficking/downloads/presse/livre_fichier_final.pdf (last visited Jan. 16, 2006).

18. *Special Rapporteur on Violence against Women, its Causes and Consequences*, *supra* note 11, at 8, § 14.

19. See further LIN LEAN LIM, *THE SEX SECTOR: THE ECONOMIC AND SOCIAL BASES OF PROSTITUTION IN SOUTHEAST ASIA* 130 (ILO, 1998).

20. The European Commission stated in 2001 that up to 120,000 women and girls might be trafficked within and into Europe each year mainly to be sexually exploited. EUROPEAN COMMISSION, JUSTICE AND HOME AFFAIRS, *8th March, 2001, International Women's Day: Combating the Inhuman Trade*, available at http://europa.eu.int/comm/justice_home/news/womanday_en.htm (last visited Jan. 16, 2006).

21. INTERNATIONAL HUMAN RIGHTS LAW INSTITUTE, DE PAUL UNIVERSITY COLLEGE OF LAW, *IN MODERN BONDAGE: SEX TRAFFICKING IN THE AMERICAS—CENTRAL AMERICA AND THE CARIBBEAN* (Oct. 2002), available at http://www.law.depaul.edu/institutes%5Fcenters%5Fcenters%5Fhrli/_downloads/regional_overview.pdf (last visited Jan. 16, 2006).

22. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Rights of the Child: Report submitted by Mr. Juan Miguel Petit, Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography*, 61st Sess., Agenda Item 13, at 7, § 18, U.N. Doc. E/CN.4/2005/78 (2004) [hereinafter *Special Rapporteur on the Sale of Children*].

23. For further information see HUMAN RIGHTS WATCH, *HOPES BETRAYED: TRAFFICKING OF WOMEN AND GIRLS TO POST-CONFLICT BOSNIA AND HERZEGOVINA FOR FORCED PROSTITUTION*, Vol. 14, No. 9(D) (Nov. 2002), at <http://www.hrw.org/reports/2002/bosnia/Bosnia1102.pdf> (last visited Jan. 16, 2006).

24. INTERNATIONAL LABOUR OFFICE, A FUTURE WITHOUT CHILD LABOUR (2002), available at http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=1566 (last visited Jan. 16, 2006).
25. NORBERT FANOU-AKO & ALAIN FRANÇOIS ADIHO, RAPPORT SUR LES TRAFIC DES ENFANTS ENTRE LE BÉNIN ET LE GABON 13 (Anti Slavery Int'l. & ESAM, 2000), available at <http://www.antislavery.org/homepage/resources/beningabon%20report.pdf> (last visited Jan. 16, 2006).
26. Joan Baxter, *Mali's Children in Slavery*, BBC News, Sept. 29, 2000, available at <http://news.bbc.co.uk/1/hi/world/africa/948135.stm> (last visited Jan. 16, 2006).
27. DAVID OULD ET AL., THE COCOA INDUSTRY IN WEST AFRICA—A HISTORY OF EXPLOITATION 4 (Anti-Slavery Int'l. 2004), available at <http://www.antislavery.org/homepage/resources/cocoa%20report%202004.pdf> (last visited Jan. 16, 2006).
28. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Rights of the Child: Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Ms. Ofelia Calcetas-Santos*, 55th Sess., Agenda Item 13, at 17, § 79, U.N. Doc. E/CN.4/1999/71 (1999).
29. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Rights of the Child: Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Juan Miguel Petit—Addendum—Communications sent to Governments and replies received*, 60th Sess., Agenda Item 13, at 4–8, §§ 9–12, U.N. Doc. E/CN.4/2005/78/Add.3 (2005).
30. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Rights of the Child: Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Ms. Ofelia Calcetas-Santos—Addendum—Report on the Mission of the Special Rapporteur to Belgium and the Netherlands on the issue of Commercial Sexual Exploitation of Children*, 56th Sess., Agenda Item 13, at 4–5, §§ 14–16, U.N. Doc. E/CN.4/2000/73/Add.1 (1999).
31. *UEFA Probes Child Trafficking*, REUTERS, Dec. 14, 2005, available at <http://foxsports.news.com.au/story/0,8659,17564626-23210,00.html> (last visited Jan. 16, 2006).
32. This region includes: Cambodia, Laos, Myanmar, Thailand, and Vietnam.
33. *Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Ms. Ofelia Calcetas-Santos*, *supra* note 28, at 15, § 74.
34. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Rights of the Child: Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Ms. Ofelia Calcetas-Santos—Addendum—Report on the Mission to Guatemala*, 56th Sess., Agenda Item 13, at 5, § 13, U.N. Doc. E/CN.4/2000/73/Add.2 (2000).
35. *Id.* at 11.
36. *Id.* at 5.
37. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Rights of the Child: Report Submitted by the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Juan Miguel Petit—Addendum—Mission to Romania*, 61st Sess., Agenda Item 13, at 6, § 12, U.N. Doc. E/CN.4/2005/78/Add.2 (2005).
38. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Yakin Ertürk—Addendum—Communications to and from Governments*, 61st Sess., Agenda Item 12 (a), at 54, § 192, U.N. Doc. E/CN.4/2005/72/Add.1 (2005).
39. Coalition to Stop the Use of Child Soldiers, *Some Facts*, at <http://www.child-soldiers.org/childsoldiers/some-facts> (last visited Jan. 16, 2006).
40. See SUSAN MCKAY & DYAN MAZURANA, WHERE ARE THE GIRLS? GIRLS IN FIGHTING FORCES IN NORTHERN UGANDA, SIERRA LEONE AND MOZAMBIQUE: THEIR LIVES DURING AND AFTER WAR (International Centre for Human Rights and Democratic Development, 2004), available at http://www.ichrdd.ca/english/comm-doc/publications/women/Girls/girls_whereare.pdf (last visited Jan. 16, 2006).
41. *Id.* at 35.
42. Brian Kates, *Black Market in Transplant Organs*, NEW YORK DAILY NEWS, Aug. 25, 2002, available at http://www.vachss.com/help_text/archive/black_market.html (last visited Jan. 16, 2006).
43. Sanjay Kumar, *Despite Ban, Organs Still Sold in India*, REUTERS HEALTH, Mar. 9, 2001, available at http://www.vachss.com/help_text/archive/despite_ban.html (last visited Jan. 16, 2006).
44. See Ian Williams, *China Sells Organs of Slain Convicts*, THE OBSERVER, Dec. 10, 2000, available at <http://observer.guardian.co.uk/international/story/0,6903,409218,00.html> (last visited Jan. 16, 2006).
45. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Rights of the Child: Sale of Children, Child Prostitution and Child Pornography, Report submitted by Mr. Vitit Muntarbhorn*,

Special Rapporteur, in accordance with Commission on Human Rights Resolution 1993/82, 50th Sess., Item 22 of the provisional agenda, at 23, § 100, U.N. Doc. E/CN.4/1994/84 (1994).

46. *Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Ms. Ofelia Calcetas-Santos, supra note 28, at 18, § 85.*

47. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Contemporary Forms of Slavery: Report of the Working Group on Contemporary Forms of Slavery on its twenty-sixth session, 53rd Sess., Agenda Item 6, at 19–20, §§ 82–3, U.N. Doc. E/CN.4/Sub.2/2001/30 (2001).*

48. ERNEST BARKER THE POLITICS OF ARISTOTLE TRANSLATED WITH AN INTRODUCTION NOTES AND APPENDICES 14, Ch. V, § 11 (Clarendon, 1946).

49. ROGER SAWYER, *SLAVERY IN THE TWENTIETH CENTURY* 217 (Routledge & Kegan Paul, 1986).

50. 60 L.N.T.S. 253. The Convention entered into force on March 9, 1927, in accordance with its Article 12. It was subsequently amended by the Protocol of December 7, 1953, that allowed the United Nations and its bodies to continue the duties and functions previously held by the League of Nations. The amended Convention entered into force on July 7, 1955.

51. Article 1.1 Slavery Convention.

52. Article 2(a)–(b) of the Convention (emphasis added).

53. Article 3 of the Convention.

54. Article 4 of the Convention.

55. Article 7 of the Convention.

56. 266 U.N.T.S. 3 [hereinafter *Supplementary Convention on Slavery*].

57. *Barcelona Traction, Light & Power Co., Limited, (Belgium v. Spain)* 1970 I.C.J. 3, 32, § 33 (I.C.J. 1970).

58. *Id.* at 33, § 34.

59. See M. CHERIF BASSIOUNI, *INTERNATIONAL CRIMINAL LAW: CRIMES* 663 (Transnational Publishers, Inc. 2d ed., 1999).

60. 1 L.N.T.S. 83.

61. 8 L.N.T.S. 278.

62. 9 L.N.T.S. 415.

63. 150 L.N.T.S. 431.

64. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Ms. Radhika Coomaraswamy, on Trafficking in Women, Women's Migration and Violence Against Women, Submitted in Accordance with Commission on Human Rights Resolution 1997/44, 56th Sess., Agenda Item 12.(a), at 10, U.N. Doc. E/CN.4/2000/68 (2000).*

65. 96 U.N.T.S. 271 [hereinafter *Convention for the Suppression of the Traffic in Persons*].

66. The other two main models are: the prohibitionist one that considers prostitution illegal and thus punishes both prostitute and client, and the regulationist one that sees prostitution as a “necessary evil” that has to be tolerated and regulated at the same time.

67. *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Ms. Radhika Coomaraswamy, supra note 64, at 11–12.*

68. UNITED NATIONS, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, UN GAOR 55th Sess., UN Doc. A/RES/55/25 (2000) [hereinafter the *UN Trafficking Protocol*].

69. The *Convention against Transnational Organized Crime* entered into force on September 29, 2003; States signatories are 147, while parties are 116. The *UN Trafficking Protocol* entered into force on December 25, 2003 and the *Protocol against the Smuggling of Migrants by Land, Sea and Air* on January 28, 2004. The former has been signed by 117 States and ratified by 95, while the latter has been signed by 112 States and ratified by 85. For more information see the homepage of the United Nations Office on Drugs and Crime (UNODC), available at http://www.unodc.org/unodc/en/crime_cicp_signatures.html (last visited Jan. 16, 2006).

70. Article 3(b) UN Trafficking Protocol.

71. According to Article 3.2 of the *Convention against Transnational Organized Crime*, an offence is transnational in nature when: “(a) It is committed in more than one State; (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) It is committed in one State but has substantial effects in another State.”

72. UNITED NATIONS OFFICE ON DRUGS AND CRIME DIVISION FOR TREATY AFFAIRS, *LEGISLATIVE GUIDES FOR THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND THE PROTOCOL THERETO* 259 § 25 (United Nations, 2004) [hereinafter *Legislative Guide*].

73. UNITED NATIONS, GENERAL ASSEMBLY, *Report of the Ad Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime on the work of its first to eleventh sessions, Interpretative notes*

for the official records (*travaux préparatoires*) of the negotiation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, UN GAOR 55th Sess., § 3, UN Doc. A/55/383/Add.1 (2000) [hereinafter *Travaux Préparatoires*].

74. *Id.* at § 65–66. Article 1(d) includes in the practices similar to slavery that states should try to abolish as soon as possible: “Any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.”

75. *Id.* at 13, § 26; *id.* at 269, § 34.

76. Article 5 UN Trafficking Protocol.

77. *Report of the Ad Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime on the work of its first to eleventh sessions, supra* note 73, at 287–91.

78. *Id.* at 288, § 62.

79. *Id.* at 289, § 65(a).

80. *Id.* at 290, § 65(b).

81. *Id.* at 290, § 65(c) and (d).

82. *Id.* at 290, § 66.

83. *Id.* at 291, § 67.

84. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Recommended Principles and Guidelines on Human Rights and Human Trafficking, Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council*, Substantive Sess. 2002, U.N. Doc. E/2002/68/Add.1 (2002) [hereinafter the *Recommended Principles and Guidelines*].

85. *Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children, supra* note 8, at 2.

86. *Id.* at 7, § 14.

87. G.A. Res. 217A, U.N. GAOR, 3rd Sess., U.N. Doc. A/RES/217 A (III) (1948).

88. 999 U.N.T.S. 171.

89. The ICCPR has the competence to examine states reports (Article 40 ICCPR), to consider interstate complaints (Article 41 ICCPR) and individual complaints (Optional Protocol ICCPR).

90. UNITED NATIONS, GENERAL ASSEMBLY, *Article 3: Equality of Rights Between Men and Women*, ICCPR General Comment 28, 68th Sess., 2000, A/55/40 Vol. I, 133, § 12 (2000).

91. UNITED NATIONS, GENERAL ASSEMBLY, *Report of the Human Rights Committee*, ICCPR, A/58/40 Vol. I, 47, § 81(17) (2003).

92. UNITED NATIONS, GENERAL ASSEMBLY, *Report of the Human Rights Committee*, ICCPR, A/59/40, Vol. I, 30, § 66(14) (2003).

93. *Id.* at 15, § 63(13).

94. G.A. Res. 2200A, U.N. GAOR, 21st Sess., U.N. Doc. A/RES/2200A (XXI) (1966).

95. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, *Committee on Economic, Social and Cultural Rights*, ICESCR, E/2003/22, 25, § 85 & 104 (2002).

96. *Id.* at 50, § 321 & 335.

97. *Id.* at 34, § 172 & 191.

98. 180 states ratified the CEDAW Convention. The complete list of states parties to the CEDAW is available at <http://www.un.org/womenwatch/daw/cedaw/states.htm> (last modified Oct. 13, 2005).

99. G.A. Res. 180, U.N. GAOR, 34th Sess., U.N. Doc. A/RES/34/180 (1979).

100. Article 18 CEDAW.

101. The Communication cannot be taken into consideration if all available domestic remedies have not been exhausted and it may be taken into consideration only if it concerns a violation committed by a state, which is party both to the CEDAW and to the Protocol.

102. The United States of America and Somalia are the only two countries in the world that still have not ratified the CRC.

103. *Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children, supra* note 8, at 8, § 20.

104. For more information on the Committee on the Rights of the Child, see <http://www.ohchr.org/english/bodies/crc/index.htm> (last visited Jan. 16, 2006).

105. G.A. Res. 263, U.N. GAOR, 54th Sess., U.N. Doc. A/RES/54/263 (2000) [hereinafter the Protocol on the Sale of Children].

106. 101 instruments of ratification of the Protocol on the Sale of Children were delivered to the Secretariat of the United Nations. The ratifications list is available at http://www.ohchr.org/english/countries/ratification/11_c.htm#reservations (last visited Jan. 16, 2006).

107. 104 states ratified the Protocol on the involvement of children in armed conflicts. For the status of ratifications, see http://www.ohchr.org/english/countries/ratification/11_b.htm (last visited Apr. 7, 2006).

108. See <http://www.ohchr.org/english/issues/children/rapporteur/index.htm> (last visited Jan. 16, 2006).

109. *Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography*, Ms. Ofelia Calcetas-Santos, *supra* note 28, at 2.

110. For more information see <http://www.un.org/special-rep/children-armed-conflict/English/index.html> (last visited Jan. 16, 2006).

111. U.N. SCOR, 5235th mtg., U.N. Doc S/RES/1612 (2005).

112. Resolution 1994/45, adopted on March 4, 1994. Ms. Radhika Coomaraswamy from Sri Lanka held the mandate for nine years (1994–2003). In August 2003, Dr. Yakin Ertürk from Turkey was nominated new Special Rapporteur on Violence against Women, its Causes and Consequences. See <http://www.ohchr.org/english/issues/women/rapporteur/> (last visited Jan. 16, 2006).

113. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, *supra* note 68.

114. *Id.* at 4.

115. *Id.* at 6, § 2.

116. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Ms. Radhika Coomaraswamy—Addendum—Report on the Mission of the Special Rapporteur to Poland on the Issue of Trafficking and Forced Prostitution of Women*, 53rd Sess., Agenda Item 9(a), U.N. Doc. E/CN.4/1997/47/Add.1 (1996).

117. *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Ms. Radhika Coomaraswamy*, *supra* note 11.

118. UNITED NATIONS, COMMISSION ON HUMAN RIGHTS, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Yakin Ertürk—Addendum—Mission to Guatemala*, 61st Sess., Agenda Item 12(a), U.N. Doc. E/CN.4/2005/72/Add.3 (2005).

119. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Yakin Ertürk—Addendum—Mission to El Salvador*, 61st Sess., Agenda Item 12(a), U.N. Doc. E/CN.4/2005/72/Add.2 (2004).

120. More information is available at <http://www.ohchr.org/english/issues/trafficking/index.htm> (last visited Jan. 16, 2006).

121. *Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children*, *supra* note 8, at § 11.

122. *Sale of Children, Child Prostitution and Child Pornography, Report submitted by Mr. Vitit Muntarbhorn*, *supra* note 45, at § 56.

123. *Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children*, *supra* note 8, at 5, § 7.

124. *Id.* at 15, § 58.

125. The General Conference of the International Labour Organization adopted the Convention in June 1999; it entered into force on November 19, 2000 and 158 countries have ratified it. For a complete list of the states that ratified the ILO Convention 182 see <http://www.ilo.org/ilolex/english/convdisp1.htm> (last visited Jan. 16, 2006).

126. Article 3 ILO Convention 182.

127. Article 22 of the ILO Constitution states that: “Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request.”

128. States who received specific comments on child trafficking as one of the worst forms of child labor are: Gabon, Mexico, Morocco, Niger, Qatar, Sri Lanka, Turkey, United Arab Emirates, and the United States. Brazil, Oman, the Philippines, and Ukraine received comments on other worst forms of child labor, and namely, Brazil on child labor and on the use, procuring, and offering a child for prostitution, Oman on camel jockeys, the Philippines on children in armed conflicts, and Ukraine on the use of children for prostitution and pornography.

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