

BELIZE:

**COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN
(PROHIBITION) ACT, 2013.**

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Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography.



No. 3 of 2013

I assent,
(SIR COLVILLE N. YOUNG)
Governor-General

31st January, 2013.

AN ACT to prohibit and punish acts of commercial sexual exploitation of a child in Belize; to give effect to and implement the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and to provide for matters connected therewith or incidental thereto.

(Gazetted 2nd February, 2013.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

**PART 1
PRELIMINARY**

1. This Act may be cited as the

Short title.

**COMMERCIAL SEXUAL EXPLOITATION OF
CHILDREN (PROHIBITION) ACT, 2013.**

Interpretation. 2. In this Act -

"child" means a person below the age of eighteen years;

"child pornography" includes any photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means, that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity, or the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or genital area or other area of the body of a child, or any written material or visual representation that advocates or counsels sexual activity with a child;

"coercion" includes -

- (a) violent as well as non-violent forms of, or psychological coercion;
- (b) threats of serious harm to, or physical restraints against, any person;
- (c) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in harm to, or physical restraints against, any person;
- (d) the abuse or threatened abuse of the legal process;

"commercial sexual exploitation" means the employment, hiring, use, persuasion, inducement, coercion or enticement of a child to engage in, or aid another person to engage in, sexual intercourse, fondling, oral sex, sodomy or any other sexual activity, or to engage in prostitution, indecent behaviour or incest with other children or with adults, or to perform in obscene or indecent exhibitions or shows, whether live or via audio-visual aids or on film, or by electronic media or to pose or act as a model in obscene

publications or other pornographic materials, or to sell, or participate in the selling of, or to distribute or participate in the distribution of, such publications or materials in exchange for money, gifts, goods or other item for the benefit of that child or of an intermediary third party involved in the sexual exploitation and includes the illicit transfer or sale of the organs of a child;

“court” means the Supreme Court;

“Minister” means the Minister with responsibility for children;

“person having authority or control over a child” includes a parent, guardian, foster parent, operator or supervisor of an institution having care of children, a teacher, a social services practitioner, or any person who has the day to day care and control of, or influence over a child;

“relationship of trust” includes a relationship of parent or guardian and child, operator or supervisor of an institution having care of children and the children in that institution, teacher and student, any familial relationship, social services practitioner and client, or any relationship where a person acts as the care giver to a child or has care of and control over a child;

“social services practitioner” has the same meaning as an “authorized person” as defined in section 2 of the Families and Children Act; and

“sexual activity” includes fondling, oral sex, sodomy or any other activity intended to provide sexual gratification.

PART 2

OFFENCES AND RELATED PROVISIONS

Offence of
child
prostitution.

3. (1) Subject to subsection 2, a person who gives or promises remuneration, gifts, goods, food or other benefits to a child or to a person having authority or control over a child for the purpose of having sexual intercourse with or for carrying out any other sexual activity with that child commits an offence and is liable on conviction on indictment to imprisonment for a term of twelve years.

(2) Subsection (1) shall not apply where the child is above the age of 16 and in a consensual relationship with the person who gives or promises remuneration, gifts, goods, food or other benefits.

Offence of
facilitating
child
prostitution.

4. (1) A person who acts as an intermediary to induce, encourage or facilitate another person to give or promise remuneration, gifts, goods, food or other benefit to a child or a person having authority or control over a child for the purpose of inducing, encouraging, compelling or otherwise getting that child to participate in any sexual activity with the person who gives or promises the remuneration, gifts, goods, food or other benefit, commits an offence and is liable on conviction on indictment to imprisonment for a term of twelve years.

(2) A person who induces another person, whether by printed matter, electronic media, oral communication or other means of communication, whether direct or indirect, for the purpose of purchasing sexual activity with any child, commits an offence and is liable on conviction on indictment to imprisonment for a term of twelve years.

Offence of
occupying
premises
where sexual
activity
involving
children takes
place.

5. A person who knowingly permits any child to remain in any premises owned, rented, leased or occupied by him, for the purpose of causing that child to participate in any sexual activity or in any obscene or indecent exhibition, dance or show whether performed live or presented via audio-visual or by

electronic means, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

6. (1) A person having authority or control over a child, who takes advantage of his authority or control over that child and sexually exploits that child or causes another person to sexually exploit that child, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

Offence of procuring a child for sexual exploitation.

(2) A person who uses coercion towards a child to procure that child to be sexually exploited by that person or any other person commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

(3) A person who acts as a procurer of a child for sexual exploitation commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

7. (1) A person who finances, produces, reproduces, publishes or makes any written material, photographic material, video, film, electronic publication, virtual or other media of any form of child pornography commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

Offence of producing child pornography.

(2) A person who coerces, induces, encourages, pays for, or exchanges any material benefit for, or otherwise causes any child to pose for any photographic material or to participate in any pornographic video or film or audio, visual or other electronic representation of any child involved in any form of child pornography commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

(3) A person who imports, exports, distributes, finances, offers, trades, sells or possesses whether for personal use or for distribution or sale via printed media or electronic media including video, compact disks, digital video disks, phone

messaging, computer image, internet, virtual media or by any other means any form of child pornography commits an offence and is liable on conviction on indictment to imprisonment for a term of twelve years.

(4) It is not a defence to a charge under this section that the accused believed that a person shown in the representation that is alleged to constitute child pornography was or was depicted as being eighteen years of age or more, nor shall it be a defence that the person depicted in the visual representation is eighteen years or older if the person was shown to represent a child at the time of making the said pornographic representation.

Offence of
taking,
organizing
or
producing
indecent
exhibitions.

8. (1) A person who organizes, promotes or produces any dance or dramatic or other presentation in any club, bar, private party or other place involving the commercial sexual exploitation of a child, or involving any depiction of a child engaged in any sexual activity intended to provide sexual gratification for another person with the intent to profit thereby commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

(2) A person who coerces, induces, encourages, pays for, or exchanges any material benefit for, or otherwise causes any child to participate in any show, or exhibition, or dance, or other activity, intended to provide sexual gratification to another person, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

(3) A person who causes a child to engage in sexual intercourse or other sexual activity with another person in the presence of a third person to provide sexual gratification to any person from the child's participation in the sexual activity commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

(4) A person who causes a child to be present while he engages in any sexual activity, or while others engage in sexual activity, with the intention of deriving sexual gratification from the child's presence commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

9. (1) A person who engages in, conspires to engage in, attempts to engage in, assists another person to engage in, or organizes or directs another person to engage in commercial sexual exploitation and that commercial sexual exploitation also involves the trafficking of a child, that person commits an offence under this Act and is also liable in accordance with the provisions of the Trafficking in Persons (Prohibition) Act.

Offence involving trafficking of a child.

Act 2 of 2013.

(2) The procedures set out regarding Assistance and Protection for Victims under the Trafficking in Persons (Prohibition) Act shall apply to victims of trafficking under this Act and are without prejudice to any other provisions set out in this Act.

Act 2 of 2013.

(3) The court shall impose the following adjustments to the sentence provided under the Trafficking in Persons (Prohibition) Act of a person convicted of the offence of trafficking where the victim is a child -

Act 2 of 2013.

- (a) if the convicted person used, threatened use, or caused another person to use or threaten use of a dangerous weapon - two years shall be added to the sentence;
- (b) if the trafficked child suffers serious bodily injury, or if the convicted person commits a sexual assault against the trafficked child - five years shall be added to the sentence;
- (c) if, in the course of trafficking or subsequent sexual exploitation, the convicted person recklessly caused a trafficked child to be exposed to a life-threatening illness, or if the

convicted person intentionally caused a trafficked child to become addicted to any drug or medication - five years shall be added to the sentence;

(d) if the trafficked child suffers a permanent or life-threatening bodily injury - ten years shall be added to the sentence;

(e) if the trafficked child dies as a result of the trafficking - the sentence shall be life imprisonment;

(f) if the trafficking of a child was part of the activity of an organized criminal group or network as defined in section 2 of the Trafficking in Persons (Prohibition) Act - three years shall be added to the sentence;

Act 12 of 2013.

(g) if the trafficking of a child was part of the activity of an organized criminal group or network as defined in section 2 of the Trafficking in Persons (Prohibition) Act, and the convicted person organized the group, or directed its activities - five years shall be added to the sentence;

Act 2 of 2013.

(h) if the trafficking of a child occurred as a result of the abuse of position where a person has authority or control over a child, or of a relationship of trust - five years shall be added to the sentence; or

(i) if the trafficked child was subjected to inhuman or degrading treatment - eight years shall be added to the sentence.

(4) For the purposes of subsection (3) -

“dangerous weapon” means -

(a) an instrument capable of inflicting death or serious bodily injury; or

- (b) an object that is not an instrument capable of inflicting death or serious injury but -
 - (i) closely resembles such an instrument;
or
 - (ii) is used in such a way that it creates the impression that the object is an instrument capable of inflicting death or serious bodily injury;

“life-threatening illness” means any illness, whether treated or untreated, that involves a substantial risk of death, and includes the human immunodeficiency virus and tuberculosis;

“permanent or life-threatening bodily injury” means injury involving substantial risk of death, loss or substantial impairment of the function of a bodily member, organ or mental faculty that is likely to be permanent or an obvious disfigurement that is likely to be permanent and includes maltreatment to a life-threatening degree such as denial of food or medical care that results in substantial impairment of function;

“serious bodily injury” means injury involving extreme physical pain or the protracted impairment of function of a bodily member, organ or mental faculty, or requiring medical intervention such as surgery, hospitalization or physical rehabilitation;

“sexual assault” means causing another to engage in a sexual act by using force against that person, threatening or placing that person in fear that any person will be subjected to death, serious bodily injury, or kidnapping, and engaging in a sexual act with an incapacitated person, or a person who cannot express consent, or with a minor that constitutes carnal knowledge under the Criminal Code; and

“trafficking of a child” means the recruitment, transportation, transfer, harbouring or receipt of a person by means of threat or use of force or other means of coercion, or abduction, fraud, deception, abuse of power or of a position of vulnerability, or by the giving or receiving of payments or benefits to achieve the consent of a person having control of that child, for the purpose of exploitation.

Attempt to or conspiracy to commit an offence.

10. A person who attempts to commit or conspires with another person to commit an offence under this Act, commits an offence and is liable on conviction on indictment to imprisonment for the same term as that prescribed if he committed the offence.

Offence of trading on earnings from sexual exploitation of a child.

11. A person residing in or frequenting the house or living wholly or in part on the income derived from the commercial sexual exploitation of a child or from procuring a child for commercial sexual exploitation commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

Offence of sex tourism.

12. (1) A person who permits, consents, divulges or facilitates the commercial sexual exploitation of a child as a tourist activity commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

(2) A person who permits, tolerates, co-operates with or realizes activities directed at promoting Belize as a destination for the commercial sexual exploitation of a child commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

Extra-territoriality of offences.

13. A person who being a citizen of or who habitually resides in Belize, and who does an act or encourages, facilitates, conspires to commit or induces a person to commit an act in any territory outside of Belize that would be an offence under this Act commits an offence whether or not that act is an offence in the territory where it was committed and is liable on conviction

on indictment to imprisonment for the term prescribed if the offence had been committed in Belize.

14. The court shall consider the following factors to be aggravating factors and shall increase the penalty prescribed for that offence by five years if any of the following factors are present in the commission of an offence under this Act -

Aggravating factors.

- (a) the presence of a relationship of trust between the child victim and the person committing the offence;
- (b) the fact that the exploitation of the victim was intended to bring profit to the offender or that the offender is part of an organized criminal group or network whether operating internationally or within Belize;
- (c) that the act entailed circumstances that endanger or are likely to endanger the life or safety of the child victim concerned; or
- (d) that the act entailed circumstances that constitute inhuman or degrading treatment.

15. Where a person has been convicted of an offence under this Act, upon a subsequent conviction for an offence under this Act, that person may be liable on that conviction to imprisonment for life.

Mandatory life imprisonment for subsequent conviction.

16. Where a person is arrested for an offence under this Act, all items or any material depicting child pornography shall be confiscated and forfeited and such pornographic material shall be destroyed after the prosecution of the offence.

Confiscation and destruction of pornographic material.

17. Where any property of a person convicted of an offence under this Act, was used or intended to be used, or was obtained in the course of the commission of that offence or benefits gained from the proceeds of that offence, that property shall be forfeited to the Government.

Forfeiture.

PART 3

RESTITUTION TO VICTIMS AND RELATED PROVISIONS

Restitution to victims.

18. (1) The court may order a person convicted of an offence under this Act to pay restitution to the victim.

(2) The court shall, in determining the amount of restitution, take into account -

- (a) the costs of medical and psychological treatment to rehabilitate the victim;
- (b) the costs of physical and occupational therapy for the victim;
- (c) the costs of necessary transportation, housing and child care of the victim;
- (d) the degree of emotional distress, pain and suffering experienced by the victim; and
- (e) any other loss suffered by the victim.

(3) The fact that the sexual exploitation of the victim was intended to bring profit to the offender or that the offender is part of an organized criminal group or network shall be an aggravating factor justifying the imposition of an increase in the restitution otherwise payable to the victim as determined by the court.

(4) Where the court orders payments to the victim in restitution, the court shall set a time limit within which such payment shall be made to ensure that the payments are made to the victim promptly upon conviction and the absence of the victim from Belize shall not prejudice the victim's right to receive such restitution.

Consent of victim irrelevant.

19. In any prosecution for an offence under this Act, the alleged consent of the victim to the intended or realized act of commercial sexual exploitation is irrelevant.

20. In any prosecution for an offence under this Act, the past sexual behaviour of a victim is irrelevant and inadmissible for the purpose of proving the victim's sexual predisposition or for attacking the credibility of the victim as a witness.

Past sexual behaviour of the victim irrelevant.

21. In any prosecution for an offence under this Act, the legal age of consent shall not be a defence.

Legal age of consent not a defence.

22. A victim of commercial sexual exploitation shall not be criminally liable for any act arising from the participation in an activity defined as commercial sexual exploitation under this Act.

Victims to be immune from prosecution.

PART 4

ASSISTANCE TO VICTIMS AND RELATED PROVISIONS

23. In the investigation and prosecution of an offence under this Act, the following guidelines shall be taken into consideration

Guiding principles.

- (a) the best interests of the victim shall be secured by protecting and enforcing the rights of that child;
- (b) the efforts of the Department with responsibility for children, the Police Department, Ministry of Health, Immigration Department and any other agency shall be a coordinated response to minimize the risk of re-victimization of the victim; and
- (c) reasonable protection shall be given to the victim and where appropriate, the victim's family, to prevent reprisals from the perpetrator or any organized criminal group or network or from witness intimidation.

Reporting.

24. (1) A person who reasonably believes, or who learns of facts or circumstances which give rise to a reasonable belief, that a child has suffered or is suffering from commercial sexual exploitation shall, either orally or in writing, report that fact or circumstance to the Police Department and to the Department responsible for children.

(2) A physician, nurse or other medical personnel who attends to a child exhibiting signs of sexual exploitation, shall in writing report his findings to the Police Department and to the Department responsible for children..

(3) Every family member, teacher, social worker, school counselor, employee of a certified children's institution, especially the Manager thereof, school administrator, principal and deputy principal of any educational institution, dean of a college, probation officer, police officer or any other employee or officer of the Government whose daily duties entail dealing regularly with children shall in writing report to the Police Department and to the Department responsible for children, any incident of suspected sexual exploitation which comes to his knowledge or attention.

(4) A person referred to in subsections (2) and (3) who -

- (a) fails to report a case of suspected child sexual exploitation which comes to his knowledge or attention; or
- (b) unduly delays in making such a report,

commits an offence and is liable on summary conviction to a fine of one thousand dollars or to imprisonment for a term of six months, or to both fine and imprisonment.

Privacy of victim.

25. (1) The court shall, in any matter relating to the prosecution of an offence under this Act, hold all proceedings in camera and where appropriate shall -

- (a) allow the testimony of child witness to be given from behind a screen or via video or other electronic means so that the victim is not face to face with the perpetrator; and
- (b) ensure that the testimony and court proceedings of a child witness take place in the presence of a parent, legal guardian, or foster parent, as the case requires.

(2) The court shall order, in any matter relating to the prosecution of an offence under this Act, that the identity of the victim or the victim's family is kept confidential and that no person shall release the name, address or any identifying information of the victim or the victim's family to the press or the public.

(3) A person who breaches an order of the court under subsection (2) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of six months.

26. (1) The court shall, in any matter relating to the prosecution of an offence under this Act, provide an interpreter who speaks the language the victim understands to assist the victim in giving evidence during the course of the trial.

**Support for
victim.**

(2) The Police Department and the Department responsible for children shall not house a victim of an offence under this Act in a detention facility or any other facility used to detain or house a person charged with or convicted of any offence under this Act or any other law.

27. (1) Notwithstanding any rule or law to the contrary, the court shall, in any matter relating to the prosecution of an offence under this Act, treat a child victim as a competent witness for the prosecution upon the court determining that the child understands the importance of speaking the truth.

**Competence
and other
matters.**

(2) Notwithstanding any rule or law to the contrary, the court shall not, in any matter relating to the prosecution of an offence under this Act, require the unsworn evidence of a child to be corroborated.

(3) Where pursuant to subsection (2) a child gives evidence, the court shall give the weight appropriate to the specific circumstances of the case and the credibility of the child witness.

(4) Notwithstanding any rule or law to the contrary, in any matter relating to the prosecution of an offence under this Act, a spouse shall be a competent and compellable witness for the prosecution.

(5) Notwithstanding any rule or law to the contrary, in any matter relating to the prosecution of an offence under this Act, the requirement to hold a preliminary inquiry shall not apply.

Providing
information to
the victim.

28. (1) The Director of Public Prosecutions shall inform a victim of commercial sexual exploitation of the progress of the criminal court proceedings and of their right to seek compensation.

(2) The Director of Immigration and Nationality Services shall inform a victim of commercial sexual exploitation especially where the victim is also a victim of trafficking –

- (a) of the option for the return of the victim to his country of citizenship and lawful residence;
or
- (b) where the victim is habitually resident in Belize and qualifies for permanent residency or citizenship status under the Belizean Nationality Act, of the procedures for seeking permanent residency status or citizenship in Belize.

(3) The Director of Immigration and Nationality Services shall issue a temporary residency permit or any other permit pursuant to the Immigration Act to permit a victim of commercial sexual exploitation to remain in Belize for the duration of the criminal court proceedings in which that victim is a witness.

CAP. 156.

29. The court may not grant bail in any matter relating to the prosecution of an offence under this Act, unless it determines that the defendant poses no reasonable threat to the safety of the victim or the victim's family and where bail is granted, the following conditions shall be applied to such grant of bail

Bail.

- (a) the defendant or any one acting on his behalf shall be prohibited from making any contact with the victim;
- (b) the defendant shall be prohibited from watching, going to the house of the victim, the school of the victim or the workplace of the victim's parent or guardian;
- (c) the defendant shall be required to indicate and remain at a specified address during the course of the trial except with the leave of the court;
- (d) the defendant shall be required to report to a specific police station at a specified time; and
- (e) where the defendant is a national of another country or has domestic ties to any other country, or where the court deems appropriate, the defendant shall be required to surrender all travel documents to the court during the course of the trial.

PART 5

MISCELLANEOUS PROVISIONS

- Responsibility of the Department responsible for children. CAP. 173.** 30. The Department responsible for children shall ensure that the best interest of the child victim is upheld by ensuring that the appropriate orders are sought under the Families and Children Act to secure the welfare of that child.
- Public awareness programs.** 31. The Department responsible for children in collaboration with the Police Department and the Ministry of Health and any other agency shall undertake and implement public awareness programs designed to educate potential victims and their families of commercial sexual exploitation, the risks of victimization and the assistance available to victims.
- Regulations.** 32. The Minister may make regulations to give effect to the purpose and objects of this Act.
- Protocol to be part of the laws of Belize. Schedule.** 33. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography signed by Belize on September 6, 2000 and which entered into force on January 18, 2002, the text of which is set out in the Schedule to this Act, shall form part of the laws of Belize.

SCHEDULE

(Section 33)

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

The States Parties to the present Protocol,

Considering that, in order further to achieve the purposes of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography,

Considering also that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development,

Gravely concerned at the significant and increasing international traffic in children for the purpose of the sale of children, child prostitution and child pornography,

Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

Recognizing that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation and that girl children are disproportionately represented among the sexually exploited,

Concerned about the growing availability of child pornography on the Internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet, held in Vienna in 1999,

in particular its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry,

Believing that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children,

Believing also that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and believing further in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level,

Noting the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child,

Recognizing the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996, and the other relevant

decisions and recommendations of pertinent international bodies,
Taking due account of the importance of the traditions and cultural values
of each people for the protection and harmonious development of the child,

Have agreed as follows:

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2

For the purposes of the present Protocol:

(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.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

(a) In the context of sale of children as defined in article 2:

(i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

a. Sexual exploitation of the child;

b. Transfer of organs of the child for profit;

c. Engagement of the child in forced labour;

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.

3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.

4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.

5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Article 4

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.

2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:

(a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;

(b) When the victim is a national of that State.

3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.

4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 5

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.

2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.

3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they

occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.

5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

Article 6

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 7

States Parties shall, subject to the provisions of their national law:

(a) Take measures to provide for the seizure and confiscation, as appropriate, of:

(i) Goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;

(ii) Proceeds derived from such offences;

(b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph *(a)*;

(c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

(a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;

(b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;

(c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;

(d) Providing appropriate support services to child victims throughout the legal process;

(e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;

(f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.

2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.

3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.

5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.

6. Nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

Article 9

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.

2. 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, in such information and education and training programmes, including at the international level.

3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

Article 10

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.
2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.
3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.
4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Article 11

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

- (a) The law of a State Party;
- (b) International law in force for that State.

Article 12

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit 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.

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the present Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 13

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 14

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 15

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any offence that

occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 16

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 17

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.