

CHILDREN'S RIGHTS - CHILD LABOUR AND EXPLOITATION

I. ARTICLES

- Article 10.3, ICESCR

Article 10

The States Parties to the present Covenant recognize that:

...

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

- Article 32, CRC

Article 32

1. States Parties recognize 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.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

CHILDREN'S RIGHTS - CHILD LABOUR AND EXPLOITATION

- Article 33, CRC

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

- Article 34, CRC

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

- Article 35, CRC

Article 35

States Parties shall take 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.

- Article 36, CRC

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

CHILDREN'S RIGHTS - CHILD LABOUR AND EXPLOITATION

- Article 1, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

Article 1

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

- Article 2, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

Article 2

For the purpose of the present Protocol:

SALE OF CHILDREN

(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;

CHILD PROSTITUTION

(b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;

CHILD PORNOGRAPHY

(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, the dominant characteristic of which is depiction for a sexual purpose.

- Article 3, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

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 these offences are committed domestically or transnationally or on an individual or organized basis:

CHILDREN'S RIGHTS - CHILD LABOUR AND EXPLOITATION

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

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

Sexual exploitation of the child;
Transfer of organs of the child for profit;
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 (b); and

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

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

3. Each State Party shall make these offences punishable by appropriate penalties which 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 this article. Subject to the legal principles of the State Party, this 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, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

Article 4

CHILDREN’S RIGHTS - CHILD LABOUR AND EXPLOITATION

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3.1, 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 3.1 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 above-mentioned offences when the alleged offender is present in its territory and it does not extradite him to another State Party on the ground that the offence has been committed by one of its nationals.
4. This Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

- Article 5, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

Article 5

1. The offences referred to in article 3.1 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 these treaties.
2. If a State Party which 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 this Protocol as 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 which 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.

CHILDREN’S RIGHTS - CHILD LABOUR AND EXPLOITATION

5. If an extradition request is made with respect to an offence described in article 3.1 and if 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, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

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 3.1, 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, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

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 (i);

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

CHILDREN'S RIGHTS - CHILD LABOUR AND EXPLOITATION

- Article 8, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

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

CHILDREN’S RIGHTS - CHILD LABOUR AND EXPLOITATION

psychological, for the persons who work with child victims of the offences prohibited under the present Protocol.

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 child victims of such offences.

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

- Article 9, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

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 these 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, CRC OP (SALE, PROSTITUTION, PORNOGRAPHY)

CHILDREN'S RIGHTS - CHILD LABOUR AND EXPLOITATION

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 for 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 practices of sale, prostitution, 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 25.1(b), 25.2 and 25.3, CMW

Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

...

(b) Other terms of employment, that is to say, minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.

2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.

3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.

CHILDREN'S RIGHTS - CHILD LABOUR AND EXPLOITATION