CHAPTER 3

INTERNATIONAL INSTRUMENT ON CHILD PROSTITUTION – A REVIEW
"...the national bourgeoisie organises centres of rest and relaxation and pleasure resorts to meet their wishes of the Western bourgeoisie, such activities is given the name of tourism and for the occasion will be built up as a national industry. The national middle class will have nothing better to do than to take on the role of manager for western enterprises, and it will in practice set up its country as the brothel of Europe."

— Frantz Fanon, The Wretched of the Earth

3.1 Introduction

In most countries one will find there are ghettos of prostitution where young women and teenaged girls lived deprived of their rights and are subjected to the seemingly unlimited power of male procurers and of the forces of law and order. Children are treated as the most contemptible category of human beings, the functional sexual utility of men both in and out of prostitution. Incest violence and large scale exploitation of women and girls in sex tourism and forced prostitution by armed personnel can be cited as illustrations of female sexual slavery. Sexual crime against children and women are no more simply social problems. They are in fact organised trans-national criminal activities, with an annual turnover of several billions US Dollars. The global nature of crime makes it indispensable to have global commitment, determination and action. It is a matter of satisfaction that the international community has woken up to the challenge and individual countries as well as international platforms have declared their resolve against this crime.
The trafficking of women and children is a matter of global concern as it involves the violation of fundamental human rights. Although numerous separate abuses are committed during the course of trafficking, which themselves contravene both national and international law, it is the combination of displacement from the community and commercialised exploitation that make trafficking a violation distinct from its component parts. There are large bodies of existing international and national instruments in the form of declarations, conventions and resolutions prohibiting trafficking and forced labour. The national laws of the South Asian countries have been inspired by developments at the international level. International instruments have tremendous bearing on the state parties and their national laws.

3.2 International framework of laws related to trafficking

The earliest measure to combat international traffic in women and girls was adoption of the International Agreement for Suppression of the White Slave Traffic, 1904. The agreement was formulated with the intention of securing to women and also under-age girls to full age who suffer abuse or compulsion, effective protection against criminal traffic be known as the ‘white slave traffic’. Then came the International Convention for the Suppression of the White Slave Traffic signed at Paris on 4th May, 1910. This convention stipulated that any person who, to gratify the passions of others has hired abducted or enticed even without her consent a woman or a girl who is a
minor, for immoral purposes, even when the various acts which together constitute the offence were committed in different countries shall be punished.

The Paris Convention of 4 October 1921 and the Geneva Convention on the Prohibition of the Traffic in Women and Children of 30 September 1921 and of 11 October 1933 extended terms of 1910 Convention to include persons under the age of 21 and with signatories taking on the obligations to extend control over emigration employment agencies. The Convention signed on 11 October 1933 in Geneva promised to prosecute criminals who kidnap for the purpose of prostitution abroad women or girls under 21 even with their consent.

In 1923, the Convention for the Suppression of the Circulation of the Trafficking, Obscene Publications was adopted by the International Community, the League of Nations and this was approved by the General Assembly of the United Nations in Resolution 126 (II) of 20 October 1947. The object of this Convention is to protect children from the person of pornography since there is close link between pornography and prostitution.

The first significant advance in establishing a broad conception of Children's right under international law was the Declaration of Geneva adopted by League of Nations in 1924. Its architect was an Englishman. The Declaration has been described

---

1. Eglantyne Webb who was associated with a non-governmental organization called Save the children in International Union.
as a landmark shifting contrast to earlier and more narrowly focused treaties dealing with trafficking and child labour. The Declaration contains five principles for the protection and care of children. Under Article 4 the fundamental principle was declared that the child must be protected against every form of exploitation. Because of their immaturity and fragility children need a “particular protection” as determined by the International Declaration of the Rights of the Child, accepted on 20 November 1959 by the Assembly of the United Nations. The United Nations called upon all states to ratify the 1923 convention.

Then came the Convention for the Suppression the Traffic in Persons, and of the Exploitation of Prostitution of others, signed on 2 December 1949. It came into force on 21 March 1950. In the United Nations Social Commission, a new questionnaire was based on the Convention to study prostitution, whose results were to be published periodically in the International Review of Criminal Policy. In 1959 publication, the United Nation made recommendations for combating prostitution. The experts recommended that the governments stop treating prostitution as a criminal offence since

---

2. This Declaration was specifically addressed in 1959, which called for the protection of children from child neglect and exploitation but was not a binding treaty. This has burgeoned into a new convention—The Convention on the Rights of Child.....a new milestone in the process as it is binding international agreement

3. See Annexure The Convention on the Rights of Child.....a new milestone in the process as it is binding international agreement

2. See Annexure .


2. Eglantyne Webb who was associated with a non-governmental organization called Save the Children in International Union.
such action push prostitution into criminal under ground and make possible the exploitation of prostitution by professional extortionists.\(^4\)

There has been a host of international conventions, dating back to the early part of this century touching upon the issue of slavery and sexual exploitation. The approach at the international level varies from 'hard law' in the form of international convention to 'soft law' in the form of persuasive pronouncement. For many decades, the International Labours Organization (ILO) has been instrumental in pressing for international legislation against forced labour covering also child prostitution. In 1930, the **Forced Labour Convention** No 29 was adopted, later reinforced in 1957 by the **Abolition of Forced Labour Convention** (No 105). State parties to this convention undertake to counter and penalise forced labour.\(^5\)

In the **Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institution and Practices of Slavery, 1956**, the concept of slavery defined in article 71\(^6\). This convention condemned a variety of slaveries like practices including debt bondage and forced marriage. The Supplementary Convention also deals with institutions and practices similar to slavery and one such class of practices was expressly described under article 1(d)\(^7\). That provision shows that the international community has

---

5. Forced Labour is defined as "all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered voluntarily".

6. It defines the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

7. Article 1(d) states that: *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 child or young person or of his labour.*
recognized the particular vulnerability of children to being placed in situations where their freedom and their sanctity of their childhood have been or may be compromised. The standard conventions that have just been mentioned define the concept of slavery in a traditional fashion, linking it with the concept of ownership. Where children are sexually exploited the traditional legal analysis of ownership may not provide a completely appropriate explanation. As has often been pointed out, where children are sexually exploited, one of the most fundamental human rights has been compromised, namely the right to the inviolability of their own body. Of course, inviolability is more frequently explained in terms of the incompetence or inability of children to grant concerned to sexual relations. Most systems of domestic laws assume such a lack of consent; and even presumed it irrebuttably not withstanding evidence of actual consent. The International Covenant on Civil and Political Right, 1966 lays down that forced labour and slavery are prohibited by Article 8 and also Article 24 which outlines the rights of children.

Alarmed at the violation of human rights, exploitation of women and their discrimination in all walks of life by men, the United Nations General Assembly adopted Convention on the Elimination of all forms of Discrimination Against Women, 1979, calling upon the state to enact legislation banning discrimination and recommended special measures giving special attention rural women. The objectives of the United

---

8. Article 8 of ICCPR states that – (i) No one shall be held in slavery; slavery and the slave trade in all their form shall be prohibited; (ii) No one shall be held in servitude; (iii) No one shall be required to perform forced or compulsory labour.

9. Article 24 of ICCPR states that – (i) Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State; (ii) Every child shall be registered immediately after birth and shall have a name; (iii) Every child has a right to acquire a nationality.
Nations Decade for women -- equality, development and peace, can never be attained as long as their economic and social conditions force them to ‘sell’ their bodies for their families to survive. National Governments enacted legislation in the spirit of the two Conventions adopted in 1949 and 197910 but in practices, however, the situation is quite different.

Despite the adoption of the United Nations 1979 Convention to end all forms of discrimination against women and to ensure equality among men and women in all fields, the position of woman continues to be discriminatory. To prevent sale of children for the purpose of their widespread exploitation in prostitution, pornography, armed conciliate, adoption and as migrant labours, the United Nations adopted the Convention of the Rights of the Child.11

Tourism, in its true sense, fast becomes an international activity, not merely in terms of the movement of tourist across national boundaries. Tourism, as an economic sector, become international, travel agencies, and the hotel industry play the major role. Tourism exacerbates and strengthens gender inequality having negative impact on women. Since tourism is being increasingly scrutinized for its linkage with child exploitation, it should be recalled that in 1985 the World Tourism Organization adopted

10. Conventions on the elimination of all forms of Discrimination Against Women (CEDAW), 1979. Article6 of this convention urges all states parties to take appropriate measures, including legislation to suppress all forms of traffic in women and exploitation of prostitution of women.

11. This Convention expressed as the Convention on the Rights of Child, entered into international law on 2nd September, 1990, nine months after the Convention’s adoption by the United Nations General Assembly. Since then, the Convention has been ratified (as of mid September 1996) by all countries except the Cooks Island, Oman, Somalia, Switzerland, The United Arab Emirates and the United States making it the most widely ratified human rights treaty in history.
the Tourism Bill of Rights and Tourist Code which included the provisions of extortionations.\textsuperscript{12} This Code may also be used to exert peer group pressure on tourists and tourist’s agencies to be more responsive to the call to eradicate child sexual exploitation.

Article 3, of the \textit{Universal Declaration of Human Rights} stipulated that “Everyone has the right to life, liberty and security of the person.” It further stipulated in Article 25(2) that “Mother and children are entitled to special care and assistance” and that all children, whether born in or out of wedlock, shall enjoy the same social protection. In 1924, the Geneva Declaration stated that the child deserves the best that mankind has to give. Today, there are more than 80 international laws, covenants and declarations designed to protect the ‘rights of the child’.

The 1989 was a memorable year for children worldwide. It was the 30\textsuperscript{th} Anniversary of the United Nations Declaration of the Rights of the child (1956) -- it was the 10\textsuperscript{th} Anniversary of the \textit{International Year of the child} (1979). On the memorable day of 20 November 1989, the international community extended the mantle of human rights protection to one of the most vulnerable groups in society children -- when it is adopted the \textit{United Nations Convention on the Rights of the child}, 1989. It is the first

\textsuperscript{12} Article states that-
(a) States are reminded of the need to prevent any possibility of using tourism to exploit others for prostitution purposes;
(b) Tourism professionals and supplies of tourism and travel services are asked to refrain from encouraging the use of tourism for all forms of exploitation of others;
(c) Tourists themselves are requested to refrain from exploiting others for prostitution purposes.
international legal instrument which lays down guarantees for the spectrum of the child's human right.

The promotion of separate right for children is a comparatively modern development. Not until the reform movements of the nineteenth century the State accept responsibility for protecting the child against the power of parents, economic exploitation or social neglect. In the pre-United Nations era, the rights of children were seen primarily in the context of measures to be taken against slavery, child labour, and traffic and prostitution of minors. In that regard, the League of Nations adopted in 1924 the Geneva Declaration on the Rights of the Child.

The Declaration has been a guide to private and public action in the interests of children ever since. Asserting that "mankind owes to the child the best it has to give", the Declaration is as a solid framework for children's right today as it was thirty years ago. The need to give the force of treaty law to children's rights became evident during preparations for the international Year of the child. In that year – 1979, the United Nations Commission on Human Rights started work on the drafting of a Convention on the initiative of Poland.

The Commission on Human Rights, from 1979 to 1989, gave increasing attention to the drafting of the Convention. When the final text of the Convention was submitted by the commission in early 1989 and later unanimously adopted by the General Assembly by resolution 44/25, the Convention had already gained extraordinary
momentum. The Convention on the Right of the Child goes further than the Declaration by making states which accept the Convention legally accountable for their actions towards children.

An unprecedented total of 61 countries signed the convention on 26 January 1990, the first day it was opened for signature. With the receipt of over 20 ratification on 2nd September 1990, the Convention entered into force. In his 1990 report to the General Assembly on the work of the organization, the secretary-General remarked "The emergence of an international consensus for strengthened multilateral cooperation focusing on children can be a development of far reaching significance. It is particularly encouraging that the Convention came into force earlier this month which was less than a year after its adoption, a very rapid pace indeed for an international treaty".

The fifty four article Convention - a Bill of Rights for children acts as its guiding spirit the best interest of the child. Positive and forward looking in its approach, the Convention calls on the States, which ratified it to create in the social and political life of their countries. Encompassing the whole range of human rights – civil, political, and economic, social and cultural the convention recognizes that the enjoyment of one right cannot be separated from the enjoyment of others. It demonstrates that the freedom a child need to develop his or her intellectual, moral and spiritual capacities calls for, among other things, a healthy and safe environment, access to medical care, and standards of food, clothing and shelter. It enlarges the legal coverage of human right by
protecting children of minority and indigenous groups and by dealing with the problems of abuse and neglect.

Making the rights protected in the convention a living reality for every child in the world will require the concerted efforts of all: government international organisation, non-governmental organizations and private group and individuals. The most important support will come from individuals through the awareness of the rights of child and there insistence that they be respected.

Then the World Conference on Human Rights, 14-25 June 1993, Vienna Austria, took new steps to promote and protect the rights of women and children by supporting the creation of new mechanisms and advocating the universal ratification of the Convention on the Rights of the Child by the year 1995. In August 1996, at the First World Congress, the representatives from 122 countries including India adopted the Stockholm Declaration and Agenda for Action Against Commercial Sexual Exploitation of Children and Child Sex Tourism and Pornography. This declaration proposes actions to be taken at the national and local levels towards prevention, protection and recovery/reintegration and child participation with respect to commercial sexual exploitation of children. Some of the notable action points are:

- Urgently strengthen comprehensive, cross cultural and integrated strategies and measures, so that by the year 2000, there are national agendas for action

13 See Annexure C.
and indicators of progress, with set goals and time frames for implementation, targeted at reducing the member of children vulnerable to commercial sexual exploitation and nurturing an environment, attitudes and practices responsive to child rights.

- In the case of trafficking of children develop and implement national laws, policies and programmers to protect children from being trafficked within or across borders and penalize traffickers, in cross border situations, treat these children humanely under national immigration laws, and establish readmission agreements to ensure their safe return to their countries or origin accompanied by supportive services, and share relevant data.

- Identify or establish peer group education programmes and monitoring networks to counter the commercial sexual exploitation of children.

- Promote alternative means of livelihood with adequate supportive services to child victims and their families so as to prevent further commercial sexual exploitation and abuse.

- Identify or establish and support networks of child rights, and include children according to their evolving capacity, in developing and implementing government and other programmes concerning them.
The aims of the World Congress were to award high priority and adequate resources for action against the commercial sexual exploitation of children; promote stronger cooperation among all sectors and strengthen the role of families in protecting children; ensure the revision and enforcement of laws; and advocate the development and implementation of gender sensitive prevention and reintegration programmes.

Over the past five years of the first world congress against commercial sexual exploitation of children held in Stockholm, Sweden in 1996, the problem of human trafficking, especially of women and children has been growing in spite of the Central Government’s Plan of Action, programmes and schemes of state Governments, interventions by NGOs and International conventions. Several factors such as the impact of globalization induced poverty, growth of sex tourism, customary discrimination against the girl child etc. have contributed to this fast deteriorating situation. In December 2001, the Second World Congress Against Commercial Sexual Exploitation of Children was hosted by the Government of Japan at Yokohama. The objective of the Congress was to review the progress in implementing the Agenda for Action adopted in Stockholm and to strengthen action to eradicate commercial sexual exploitation of children.

Simultaneously, there have also been some developments in the area of trafficking of children and child sexual exploitation. The International Labour Organization (ILO) Convention No. 182 was adopted by the ILO general conference on 17 June 1999. It relates to prohibition and immediate action for elimination of worst forms of child labour. It has identified the use of children for prostitution as one of the
worst forms of forced labour. Consequently, the focus of ILO’s efforts in the area of forced labour has been on trafficking in children.

The Optional protocol to the CRC on Sale of Children, Child Prostitution and Child Pornography was adopted by the U.N general Assembly on 25 May 2000. It aims at reinforcing the conventions on the rights of the child and criminalizes violation of children’s rights such as sale, transfer of organs for profit, illegal adoption, prostitution and pornography. It has made further clear provisions which must be incorporated in the domestic and international laws and bi- and multi- lateral agreements covering the crime of sex tourism.\(^{14}\)

The UN Trafficking Protocol seeks to create a global language to define trafficking in persons, especially women and children, assist victims of trafficking, and prevent trafficking in persons. It supplements the United Nations Convention Against Transnational Organized crime, 2000. Article 3(a) of the protocol defines ‘trafficking in persons’ as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of 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”. This victim friendly protocol provides

\(^{14}\) See Annexure D.
for preventing measures\textsuperscript{15}, victim compensation and privacy protection\textsuperscript{16} repatriation\textsuperscript{17} and strengthens border control measures\textsuperscript{18}.

However, a protocol does not provide protection from prosecution for the acts victims are forced to perform. Therefore victims could be prosecuted for a crime they were coerced into committing as prostitution, working without permit etc. Thus, victims who remain in a country in order to serve as witnesses for the prosecution could be detained for months without critical services or employments. This could create unwillingness in victim to offer testimony, which would be detrimental to the case and undermine the law enforcement objectives of this protocol. Also these victims are still at risk of physical harm from the traffickers. There is no mention of ‘reintegration’ or providing services upon repatriation to ensure that a victim is able to reenter mainstream society. The protocol refers only to cooperation between States Parties to ensure safe repatriation of victims to their countries of origin. The victims are, in fact, likely to be delivered back into the same conditions from which they were trafficked and are at risk of re-victimization.

3.3 Regional Instruments

At the regional level there have been several initiatives by the governments of South Asia and Asia Pacific regions. The Bangkok Accord and Plan to Combat Trafficking in Human 1998; Asian Regional Initiative Against Trafficking in

\textsuperscript{15} Section 9 of the United Nation Convention Against Trans-national Organised Crime
\textsuperscript{16} Article 6 of the United Nation Convention Against Trans-national Organised Crime.
\textsuperscript{17} Article 8 of the United Nation Convention Against Trans-national Organised Crime.
\textsuperscript{18} Article 11 and 12 of the United Nation Convention Against Trans-national Organised Crime.
Persons, especially in Women and Children (ARIAT) 2000; the ASEM (Asia Europe Meeting) Action Plan to Combat Trafficking in Persons Especially in Women and Children 2000; are illustration of their consorted efforts. There are many more international instruments and mechanism available to address the child trafficking. Some attempts have been made to tackle the issue even at the regional level, though they have been limited to cross-border trafficking for prostitution.

The multilateral approach can be parallel by regional and bilateral initiatives. This is exemplified by the 1987 African Charter on the Rights of the Child, which calls for protection of the child from exploitation. In 1991, the Council of Europe adopted the Recommendation on sexual exploitation, Pornography and Prostitution of and Trafficking of Children and Young Adults. It placed emphasis on the importance of organizing the public against sexual exploitation, information campaigns, information collection, and interaction with travel agencies, to international instruments, expansion of national jurisdiction to cover the misdeeds of nationals abroad, exchange of information and more research on pedophilia and the link between the sex industries on organized crime. In this lead-up to the 1993 World Conference on human rights, various regional meetings also highlighted the plight of the child and called for more cooperation.

In 1999, the ASEAN (Association of South East Asian States) made a Declaration. This declaration addressed child trafficking under the fabric of transnational crime, calling for creation of an ASEAN Centre on Transnational Crime (ACTC) to coordinate regional efforts to fight such crimes, including trafficking in children and
women in the region. The other regional effort that may be mentioned includes the SAARC Summit in May, 1997 and the SAARC Rawalpindi Resolution of 1996. Amongst the international measures effective at the regional level are the 1997 U.N. Economic and Social Commission for Asia and the Pacific (ESCAP) Resolution 534 on *Elimination of Sexual Abuse and Exploitation of Children and Youth in Asia and Pacific and International Programme for the Elimination of Child labour (IPEC)*, 1992. Unlike other measures concentrating on sexual exploitation the ILO-IPEC programme seeks intervention on trafficking of children for labour at the regional levels.

Many international conferences and conclaves too have looked into the problem. In May, 2002, at the UN General Assembly special sessions on children although discussions encompassed the entire orbit of trafficking, ultimately the participating countries restricted themselves to include sexual exploitation, labour, organ sale and entertainment only. At the 11th SAARC summit at Katmandu in January 2002, the member countries signed a *Convention on combating trafficking in Women and Children for Sexual Exploitation*. At the 2nd World Congress Against Commercial Sexual Exploitation of Children (December 2001) in Yokohama, participating countries reaffirmed as their primary considerations, the protection and promotion of the interests and rights of the child to be protected from all forms of sexual exploitation. The Yokohama congress was a follow up to the Fist World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996.
The most recent effort at the South Asia regional level in the SAARC Convention Preventing and Combating Trafficking in Women and Children for prostitution, 2002, which calls for co-operation between member states to deal with prevention and suppression of trafficking across borders and for rescue and rehabilitation of the victims. The aim of this convention is to promote cooperation amongst member states to effectively deal with various aspects of prevention and suppression of trafficking in children and women; repatriation and rehabilitation of victims of trafficking and preventing the use of women and children in International prostitution networks, particularly where the SAARC member countries (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka) are the countries of origin, transit and destination. The convention is legally binding on its signatories parties and is the first regional anti-trafficking treaty to emerge from the Asian continent.

The Honolulu Declaration, 2002 recognized the need to address the structural causes of trafficking and the forms of exploitation and poverty at its roots. The mobilising of a broad coalition was envisaged, to bring together concerned agencies, organizations and individuals to combat trafficking at local, national, regional and international levels.

The Brussels Declaration on Preventing and Combating Trafficking in Human Beings, 2002 aims at bringing about European and international co-operation, in developing concrete measures, standards, best practices and mechanisms for prevention,
victim protection and assistance, and police and judicial co-operation to prevent and combat the trafficking of human beings.

3.4 International Human Rights Law protecting children

In recent years, for understandable reasons, the primary focus of international attention for the protection of children’s rights has been the Convention on the Rights of the Child adopted by the United Nations in 1989. The Convention was the culmination of long consideration and discussion about the most effective measures, at an international level, for protecting the rights of children everywhere.

The Convention is part of international human rights law, a legal development of profound importance since the Second World War. Prior to 1939 the dominant influence in public international law was State Sovereignty and the preservation of ‘domestic jurisdiction’ as a domain outside the concern of international law. A fundamental principle of international law was a state’s sovereignty with respect to matters within domestic jurisdiction was recognized as absolute, except to the extent that the state, in the exercise of its own very sovereignty, should have accepted international legal obligations to such extent as it was prepared to allow. International law was, in brief, traditionally a system of law as between states. It was very much the exception rather than the rule that an individual acquired rights or become the subject of obligations. There were notable exceptions, including the abolition of the slave trade, and
ultimately of the slavery itself, and also the development of a concept of humanitarianism in the international laws of war.

The global experience of nations during the Second World War acted as a catalyst to change the basic objectives of international law. Particularly in the United Nations, there was a widespread, almost universal recognition of the need for the protection of human rights and fundamental freedoms. The general concepts of human rights embodied in the Charter of the United Nations itself was elaborated in the Universal Declaration of Human Rights, which has had a pervasive influence in the formulation of many new national constitution and municipal laws throughout the world, and particularly in commonwealth countries on their attaining independence. At the international level the principle of the Universal Declaration has been translated into international obligations\textsuperscript{19} and regional levels.\textsuperscript{20}

The result is that one can now legitimately speak of a global human rights regime. This development in the international law of human rights has mirrored the growing public awareness world wide of the meaning and significance of concepts of human rights. In consequence, there has been an increased recognition by all

\textsuperscript{19} Through the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

\textsuperscript{20} At the regional level by means of multilateral instruments such as the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1950, the American Convention of Human Rights in 1969, and the African Charter on Human and People's Rights in 1981.
governments of the importance of securing international legitimation to confirm their political legitimacy in their own countries.

Where multilateral Convention has been concluded in the international sphere, a wide range of implementation procedures have been adopted. Those procedures include the obligation on states to submit periodic reports; procedures for dealing with complaints between states; procedures for handling complaints by private individuals against states, particularly where there are allegations of gross or massive violations of human rights. Under the Convention, however, there is no provision either for interstate complaint or for individual complaints. The only mechanism for implementation is the reporting procedure. A committee of ten experts elected by secret ballot by the state parties to the convention monitors the progress made by states that have ratified or acceded to the convention in fulfilling their obligations. The first election to that committee took place on 27 February 1991.

States parties to the Convention accept an obligation to submit regular reports directly to the committee of experts on the steps that have been taken to put the convention into effect and on progress regarding the implementation of children's rights. Those reports are made public, and there is an opportunity to give them wide national distribution. Although Amnesty International urged that a right of individual petition should be incorporated in the covenant, its advocacy was unsuccessful. The committee of experts, therefore, is only able to report on progress made by the states parties to the Convention and to act as a diplomatic channel through which states may request technical
advice and assistance in protecting the rights of the child. In short, there are no specific international sanctions for breaches of the Convention. But, although the progress is slow, indeed painfully slow, the fact that the Convention exists at all is a step forward.

The Convention may be said to cover what are described as the four kinds of rights (the 4Ps). *Firstly*, it is concerned with the prevention in terms of developing preventive health care, preventing child abduction, and the like. *Secondly*, the convention also aims at protection of children against all forms of unjustifiable discrimination as well as from torture, cruel, inhuman and degrading treatment and punishment, abuse and exploitation. And it also recognizes the need for protection of specific categories of children --- for example, children seeking refugee status. The rights of disabled children are recognized by article 23,21 which refers to their right to participate actively in community life. *Thirdly*, the convention seeks to impose provision for children as a duty on States. For example, it requires states to provide rehabilitation for child victims of abuse and neglect, as well as to make provision for the equal access of all children to cultural, artistic and recreational activities. There is a specific obligation for the right of every child to benefit from social security, including social insurance.22 *Fourthly* and finally, the Convention covers certain rights of participation. For instance, under article 3 it refers to the fundamental requirement that "in all actions concerning children, whether under taken by public or private social welfare institutions, courts of law,

---

21. See Annexure B.
administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

As part of the celebration of the 20th anniversary of the Declaration of the Rights of the Child, 1979 was designated the International year of the Child. During that international year a proposal was advanced to the United Nations by Poland that there should be a convention on the rights of the child based upon the 1959 declaration. The proposal was taken up. The work of drafting a convention was entrusted to the Human Rights Commission of the United Nations, which delegated that task to a working group, whose final report in 1989 provides a most valuable guide to the interpretation of the terms of the convention on the Rights of the child. The convention was adopted unanimously by the General Assembly of the United Nations on 20 November 1989 and, in accordance with Article 49, entered into force on 2 September 1990. The Convention has been described as ‘the most complete statement of children’s rights ever made’ and is the first to give these rights the force of international law.

Since the adoption of the convention there have been supplementary international instruments fleshing out its provisions. These are the World Declaration on the survival, protection and development of children and the Plan of Action for implementing the World Declaration on the survival, protection and development of children in the 1990. The plan of action contained distinct goals to be attained by the year 2000. But regrettably, there are no distinct goals with respect to sexually exploited children apart from the general objective that all children should have protection. The Plan of Action
was adopted by the world summit for children on 30 September 1990, some few weeks after the Convention entered into force. One of the world summits was to work towards broadening participation and improving the implementation of the Convention. The result has been a speeding up of the process of ratification of the Convention, especially in the so called 'under developed countries', at least 22 states ratified the convention in the six months immediately of the adoption of the Plan of Action.

3.5 Actions by the United Nations apart from the Convention

The Working Group is a group set up under the auspices of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which is subordinate to the Commission on Human Rights of the United Nations. The mandate of the working group required it to concentrate on specific yearly themes for the 1989-91 period, namely prevention of the sale of children, of child prostitution and of child pornography (1989), the eradication of the exploitation of child labour and of debt bondage (1990), and the prevention of traffic in persons and of the exploitation or the prostitution of others (1991). It was decided in 1991 that the theme for the year 1992 should be the overall evaluation of the activities of the Working Group during the three previous sessions, as well as the consideration of any crucial, serious or urgent matters related to these activities.

One of the resolutions adopted by the Sub-Commission in 1989 was a resolution (1989/43) suggesting that the commission on Human Rights should circulate to
governments, specialised agencies, and non-governmental organizations for their comments to draft a Programme of Action for Prevention of Sale of Children, Child Prostitution and Child Pornography. That suggestion, in the following year, was accepted by the Human Rights Commission which resolved to request the Secretary General to submit an analytical summary of the responses received and decided to examine the draft programme of action along with the Secretary General report.

By resolution 1989/42 the sub-commission suggested that the commission on Human Rights should establish a Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, including the problem of adoption of children for commercial purpose. That suggestion was also adopted by the Commission of Human Rights ultimately by the Economic and Social Council. Mr. Vitit Muntarbhorn from Thailand was appointed to the newly created post of Special Rapporteur in September 1990 for a term of two years and later was extended for an additional three years period to end in 1995.


---

23. Vital Muntarbhorn is a Professor at the Faculty of Law, Chulaomkorn University, Bangkok, Thailand. He served as the United Nations Special Rapporteur on the sale and trafficking of women and children from 1990-1994. In this capacity he produced four comprehensive reports on national and international development in the areas of sale of children, child prostitution and child pornography. He is currently executive director of child rights ASIANET.

24. Law in the form of persuasive announcement
was originally prepared by the working Group on contemporary Forms of slavery and was propelled by the sub-commissions on Prevention of Discrimination and Protection of Minorities. The Program calls for better law enforcement and more cooperation between key organizations such as INTERPOL and United Nations Agencies. Various specific concerns are voiced from Articles 46 to 50. While it does not specifically address children, this draft program of action includes strategies which can be promoted for their protection. These include information, social measures, development assistance, legal measures, law enforcement, rehabilitation, reintegration and international co-ordination.

These programs of action deserve to be disseminated broadly at the national level. Implementation by states should be encouraged, as well as consistent monitoring and reporting to the United Nations Commission on Human Rights and to other concerned international entities such as the Committee on the Rights of the Child and the United Nations Special Rapporteur on the Sale of Children. From the angle of children being used as instruments of crime, it is worth noting the work of the *Crime Prevention and Criminal Justice Branch of the United Nations*. Related to its work was the adoption of

25. **Article 46**—Incest and sexual abuse within the family or by the child’s employers may lead to child prostitution. State therefore should take all appropriate legislative, administrative, social and educational measures to protect children against all forms of abuse while in the case of parents, family or legal guardians or any other person.

**Article 47**—Special attention should be paid to the problem of sex tourism, legislative and other measures should be taken to prevent and combat sex tourism, both in the countries from which the customers come and those to which they go. Marketing tourism through the enticement of sex with children should be penalized on the same level as procurement.

**Article 48**—the word Tourism Organisation should be encouraged to convene on experts meeting designed to offer practical measures to combat sex tourism.

**Article 49**—States with military bases or troops, stationed on foreign territory or not, should take all the necessary measures to prevent such military personnel from being involved in child prostitution ,the same applies to other categories of public servants who for professional reason are posted abroad.

**Article 50**—Legislation should be adopted to prevent new forms of technology from being used for child prostitution.

3.6 Legal Framework against Trafficking in South Asian Countries

Bangladesh

The Bangladesh Constitution guarantees equal rights and equal protect to all regardless of gender. The fundamental principle of state policy requires the state to prevent prostitution. Article 34 (1) prohibits all forms of forced of labour. The Penal Code of 1860 deals with the laws both form within and forced into prostitution and punishment for offenders procuring minor girls, both from within and outside the country. Sections 364 A, and 373 provide protection to women who are victims of sexual offences of illicit intercourse by punishing the kidnapper or abductor. The Code of Criminal Procedure, 1898 outlines the procedural law in criminal matters. The police are vested with the power to arrest without warrant on grounds of suspicion (Section 54). The child Marriage Restraint Act, 1929 prohibits the marriage of girls under the age of 18 and boys under the age of 21 and punishes parents/guardians who violate this prohibition. The Suppression of Immoral Traffic Act of 1933 protects all children up to the age of 18 from sexual exploitation. The Vagrancy Act of 1943 provides the definition of a vagrant and his/ her arrest and detention and rehabilitation. Under the Emigration Ordinance of 1982, registered recruiting agents for overseas employment can lose their licenses and forfeit their security deposit if they are found to have violated
the ordinance or to have been guilty of other misconduct (including coercion or fraud in inducing someone to migrate).

The Cruelty to women (Deterrent punishment) Ordinance, 1983 increased punishment to life imprisonment and death penalty, for kidnapping or abducting women, trafficking of women and children, attempt to cause death, acid throwing, rape, etc. The Suppression of Immoral Traffic Act of 1993 provides punishment for forcing girls into prostitution and detaining girls below the age of 18 years against their will, in any house, room or place in which prostitution is carried out. The Children (Pledging of Labour) Act, 1993 prohibits the making of agreements to pledge the labour of children under the age of 15 years and the employment of such children whose labour has been pledge. The women and children Repression (Special Provision) Act, 1995 prescribes death or life-long imprisonment for unlawful importation, exportation or sale of children. The same punishment is stipulated in the Cruelty to Women and Children (Special Provision) Act, 1995. The women and Children Repression prevention Act, 2000 provides for stringent penalties against trafficking, kidnapping, rape, sexual oppression of women and children. These provisions also apply to both internal and cross-border trafficking. Special tribunals may place the women /child victim with an NGO or individual custodian during trial. It also provides for victim compensation.

The Public Security Act, 2000 protects women and children from extortion. The National Policy for Children, 1994 aims to integrate the principles of the Convention on the Rights of the Child with national development activities, and the National Policy
for Women includes a five-year plan for improvement of the situation of women. The National Plan for Children explicitly addresses child trafficking.

In Bangladesh, the Women and Children Repression Prevention Act, 2000 recognises the different motives for trafficking and provides several victim and witness protection measures and compensation. It also authorises the Special Tribunal to rehabilitate victims with the help of NGOs and empowers magistrates to hear depositions wherever required. However, on the downside, Section 54 Criminal Procedure Code of Bangladesh confers broad powers on the police to arrest on mere grounds of suspicion. Health services are often denied to a woman on the sole basis that she is a prostitute. Under the Constitution, an individual is entitled to choose her occupation. Persons above the age of 18 years, on execution of an affidavit signifying volition, can prostitute themselves. Such a provision endangers the vulnerable segment of women and girls whose human rights can be trampled upon by vested interests. The rapes laws discriminate against sex workers because they are classified as 'habituated' to sexual intercourse, thereby making conviction near impossible.

Bhutan:

There in very little information available on the laws of Bhutan relating to trafficking. In 2001, the committee on the Rights of the Child considered Bhutan's initial report and made certain concluding observations. The Committee noted the absence of legislation on the minimum age for admission to employment. There is insufficient data
and awareness regarding the sexual exploitation of children. The committee has proposed that a national study on the nature and extent of sexual exploitation and child labour should be undertaken. It has also suggested that new laws should be promulgated and existing laws suitably amended to address these grave issues.

Maldives:

The law bars children less than 14 years of age from "places of waged work and from work that is not suitable for that child's age, health or physical ability or that might obstruct the education or adversely affect the mentality or behaviour of the child". The law also prohibits government employment of children under the age of 16. Forced or bonded labour by children is not specifically prohibited. However, there are no official reports that such practices occur. The law does not prohibit trafficking in persons. There are no reports of persons being trafficking to, from or within the country. Following nationwide consolation, the government has drawn up a National Plan of Action on the basis of the Being Platform for Action and the Commonwealth Plan of Action on Gender and Development.

Nepal:

The Constitution of Nepal enshrines the principles of equality and justice to every citizen without any discrimination on the race, caste, sex, creed etc. and safeguards the human rights of all citizens. Under Article 20, it forbids the trafficking, and sale of
women and children and other forms of slavery. The Muluki Ain, 1963 (Code of Law), contains provisions against inter-state and domestic trafficking. Section 1 decrees prison sentences of 20 years for international trafficking and 10 years imprisonment for attempt sale, plus fines equivalent to the amount of transaction. The Open Border Agreement of 1950 allows India and Nepali nationals to travel freely between countries, without display of passports or visas.

The Human Trafficking (Control) Act of 1986 (HTCA) establishes territorial jurisdiction for offences committed outside Nepal. Anybody with information that human trafficking is about to take place or is in progress can file a complaint, any police post with whatever evidence is available. The Labour Act of 1992, under Section 5(1), prohibition the employment of a child under the age of 14 in any enterprise. The Children's Act of 1992 contains provisions to prevent the use of any child in an immoral profession as also other forms of sexual exploitation; use of child for begging; sale of girl children as religious offerings to temple deities; or for child labour. The Human Trafficking Control Bill, 2000 has a wider definition of trafficking than the one under HTCA, 1986 and includes buying a human being of any reason, enslaving a human being for bonded labour, indulging in prostitution, kidnapping children and all other forms of exploitation not covered in the 1963 Mulki Ain. The operation of brothels and leasing of property to known traffickers in prohibited. Victim protection and compensation measures are included in the pending bill.
The National Action Plan against trafficking in children and their sexual exploitation contemplates intervention in six areas – rescue and reintegration; income and employment generation; awareness creation; advocacy; networking and social mobilisation; health and education; legislation and enforcement and policy and institutional development.

In Nepal, the Mulki Ain, 1986 stipulates punishments for the purchaser and the seller of women and children, holding both equally liable. The Act has extra-territorial jurisdiction with equal penalties for offences committed within or outside Nepal. The law facility complains of human trafficking by anybody to any police force, with whatever evidence available. When a woman is taken outside Nepal by anybody other than a close relative for sale or compulsion into prostitution, the burden of proof to disapprove the charge rests on the accused. There is a victim friendly provision. In the new bill, proposed in the year 2000, more victim friendly procedures like in-camera trails, non-requirement of a restatement by the victim in court, if it has already been recorded, etc, have been included. It also provides for specific rehabilitation centre. The Children's Act 1992 of Nepal, under Section 20(1), empowers NGOs to initiate cases in favour of children in the district courts. However, the HTCA has a strong undercurrent of morality and is, therefore, not oriented to a human rights perspective. There are no specific measures to protect the rights of the victims. The National Plan of Action is also criticized as not projecting human rights of the victims. The National of Action is also criticized as not projecting a human rights perspective because there is no specific requirement for ensuring the protection of women's rights and child rights during rescue
and rehabilitation. The existing rape laws discriminate against women, in that, if the rapist can prove the victim to have been prostitute, he can get away with a very minimal punishment. The provision in the Trafficking in Human Beings (Control) Bill, 2000 holding voluntary engagement in six works as synonymous with trafficking, has also been widely held to be in violation of human rights. Moreover, such a view is likely to trivialise the serious violation that are committed during trafficking. Further, the anti-trafficking laws in Nepal do not provide for immigration with rescue

Pakistan:

In Pakistan there is, the Prevention and Control of Human Trafficking Ordinance, 2002 has been promulgated to deal with all types of human trafficking. It is a comprehensive legislation – the first of its kind in the SAARC region. However, the legislation suffers from certain limitations. There is no specific attention to child trafficking as distinct from others. The role of NGOs has neither been identified nor assigned. Legislation is focussed on trans-border trafficking and not on domestic trafficking.

The Prevention and Control of Human Trafficking Ordinance, 2002 of Pakistan defines human trafficking to include trafficking for any purpose, viz. Prostitution, forced labour and services, etc. This ordinance takes into consideration even mental injury of a person as an act of exploitation and provides for harsher sentences for serious violations. It also takes into consideration the organised nature of the crime and
casts a vicarious liability on each member of the group by providing stringent punishment. The ordinance also includes provisions for compensation to the victims.

Under Pakistan law, the level of proof for 'Zina' (extra-marital sex) and 'Zina-bil-jabr' (rape outside of a valid marriage), which is liable to 'hadd', requires either a confession or at least four Muslim male witness. If this high evidentiary requirement cannot be satisfied, then the crime of Zina or Zina-jal-jabr is liable to tazir, which does not require four Muslim male witnesses. If unable to prove rape, the court takes the rape victim's statement as a confession of adultery, which results in the punishment of the rape victim.

Sri Lanka:

Intra-country trafficking is one of Sri Lanka's major problems. Sir Lanka prohibits the employment of children under the age of 12, although there are reports that child labour is still widespread. In Sri Lanka, child exploitation is reported to be closely linked to pornography. Section 360 of the Penal Code deals with the offence of trafficking, defined as the act of buying or selling or bartering of any person for money or for any other consideration. Those assisting, arranging the travel, recruiting, falsifying birth records, and impersonating or engaging in the procurement of children for adoption are also liable for prosecution. In 1998, the code was amended again to provide for offences against children such as causing or procuring children to beg, or hiring children for sexual intercourse. In addition, a provision was inserted for their protection from
pornography. The Amendment of the Adoption of Children, 1992 decreed that the custody and care of a child for adoption must be entrusted to a person in charge of a registered government orphanage (for a period of five years). This means that no child from a private home can be legally adopted.

The Evidence (Special Provision) Act, 1999 amends the Evidence Ordinance to make it sensitive to the vulnerabilities of a child witness, for instance, by permitting admission of a video recording of a preliminary interview between an adult and the child witness with respect to an offence relating to child abuse as evidence.

The National Child Protection Authority Act, 1998 focuses on prevention of child abuse and protection and treatment of children who are victims of such abuse. A National Child Protection Authority was established under this Act to monitor implementation and advise the government on the related issues.

In Sri Lanka, in order to protect children from pornography, Section 286 A of the penal code makes it mandatory for developers of photographs and films to report any indecent or obscene film or photographs to the police station. The Evidence (Special Provisions) Act, 1999 enables a court to receive a child’s evidence without causing oath. It also provides admission of videotaped evidence of an earlier interview between the victim and others. The National Child Protection Authority is a landmark initiative in preventing child abuse and protecting the rights of children.
Owing to the increase in the number of foreign national in Thai brothels, the Anti-Trafficking Act was passed in 1928. Section 7 of the Act states that *women and girls who have been trafficking into Thailand will be exempted from imprisonment and or fines.* The Suppression of Prostitution Act 1960 intended to climate prostitution (defined as “an act promiscuously rendering sexual services for remuneration”) by making it an illegal activity. The Act stipulated that convicted prostitutes should be reformed through medical treatment. The Entertainment Places Act of 1966 was designed to pave the way for brothels to be legalised in the guises of massage parlours, bars, nightclubs, teahouses, etc. The Act defines various kinds of entertainment places and allows such places to operate only under a license to be obtained from the local police station and sets 18 years as the minimum age for women to work in such establishments.

Under the Penal Code of 1956, prostitution is not illegal, but procurement for the same is. This act stipulates harsh punishment for abuses against girls forced into prostitution. The nature and severity of the punishment is in direct relation to the age of the victim. The Thai immigration Act of BE 2522 (1979) prohibits entry into the kingdom of Thailand, of foreigners who are deemed, on reasonable grounds, to be motivated to enter the kingdom for the purposes of engaging in prostitution or in the trafficking of women and children and ordains the withdrawal of permits where the individual is suspected of indulging in such acts. The Prevention and Suppression of
Prostitution Act of 1996 continues to maintain prostitution as illegal but considerably reduces the penalties for the prostitute. In addition, if the prostitution is forced, then the prostitute is not deemed to have committed an offence. Sex with children under 18 years of age is a crime and the customer may face a very heavy fine. All those involved, like procurers, traffickers, pimps etc, are punishable by imprisonment and a fine.

The measures in Prevention and Suppression of Trafficking in Women and Children Act, B.E. 2540 (1997) extends coverage to both boys and girls under 18 years of age. If defines as a crime, the conspiracy to commit an offence involving the trafficking of women and children. The Penal Code Amendment Act (No. 14), B.E. 2540(1997) covers those who procure, lure or traffic, boys and girls, adult males and females for the sexual gratification of another person. The nationality and location of the offender is irrelevant in such a case. The Criminal Procedure Amendment Act (No. 20), B.E. 2542 (1999) was aimed at making the Act child-friendly. In the revised Act, videotape recordings shall be used to take the statement of the child victim or witness in order to protect the child from repeated victim satan. Other initiatives include efforts towards total elimination of the entry into commercial sex of children, both boys and girls, under the age of 18.

Thailand has set up "The National Secretariat on Trafficking in Women and Children in the Mekong Sub-Region" to coordinate work with countries in the Mekong sub-region. It has joined the Association of Southeast Asian Nations (ASEAN) to develop and implement and ASEAN plan of action to prevent and combat trafficking in
women. In order to support cooperation between the government and NGOs, a MoU (Memorandum of Understanding) has been drafted between the Royal Thai Government and NGOs, on the framework for cooperation and implementation of activities for the eradication of trafficking in women and children. This is supplemented by two other MoUs one between the various government department of Thailand and another between the various NGOs working on related issues. However, there is a need for a national agency or a Task Force to ensure the implementation of these MoUs.

3.7 International response to trafficking

Over the years, trafficking in human beings has become a global phenomenon. It has reached epidemic proportions, leaving no country immune to it. The International Organization for Migration estimates that the global trafficking industry generates up to US $ 8 billion every year, making it the third largest international organized crime after arms and drugs. The United Nations and its relevant organs such as UNICEF, UNESCO, Human Right Commission, INTERPOL and the International NGO's such as the International Abolitionist Federation (IAF) and the Salvation Army have been operating in different parts of the world creating public awareness of the grave social and human

\[26\] From 1774, there were anti-slavery associations in the United States. The abolitionist movement per se came into being in connection with the comprehensive reform efforts of the 19th century. In 1875, Josephine Butler (1828-1906) founded the IAF and gave the lead for establishment of the international Federation of 'Amies de la Jenne Fille'.
problems mobilising support in combating prostitution and exploitation of children worldwide.

UNICEF

UNICEF always has a general purpose, the survival of the child, a survival that is not guaranteed to millions of children. Since the beginning of this decade the UNICEF has occupied itself with the protection of children, world over, who grow up under extreme difficulties. UNICEF is guided by the Convention on the Rights of the Child (CRC), which has been ratified by most countries. Articles 9 and article 10 of the CRC state that a child must not be separated from his or her parents against their will, except where it is in the best interest of the child. Article 11 commits States to combat the illicit transfer of children abroad. Article 35 asks State to adopt appropriate national, bilateral and multinational measures to prevent the abduction, sale or trafficking of children for any purpose or in any form. For children who do not live with their parents, Articles 20 and 21 declare the best interest of the children to be paramount, and note the desirability of continuing the child’s ethics, religious, cultural and linguistic background. Article 21 provides that international adoption must not involve “improper financial gain”. Articles 32, 34, 36 and 39 which provide for protection against economic, sexual and all other forms of exploitation, and the child right’s to physical and psychological recovery and social reintegration, are also relevant to the protection of child victims of trafficking.
UNICEF holds that a new policy on trafficking must build on standards already adopted by the international community, including the Convention on the Child’s Right. UNICEF has also played an important role in the elimination of child labour in India by supporting Government and NGO activities in India. Recently UNICEF has been involved in combating child prostitution and trafficking by organizing regional workshops. It is working with National Human Rights Commission to coordinate policy and work.

UNESCO

UNESCO provides assistance in the fields of education and information. The organisation sponsored the participation of several women and girl from the African and Arab regions in the summer university of Dijon (France) held in July, 1990, which brought together European non governmental organizations and specialists to examine measures to combat prostitution and the traffic in persons. The UNESCO continued to be concerned with affronts to the dignity of women and girl in particular with the suppressions of the Traffic in Persons and Exploitation of the prostitution of others.

UNIFEM

The core agenda of United Nations Development Fund for Women has been to promote women’s human rights, political participation and economic security. Towards this end it provides technical and financial assistance to innovative programmes and
strategies. Within the UN system, UNIFEM promotes gender equality and links women’s issues and concerns to national, regional and global agendas by fostering networks and alliance building across governments and civil society. UNIFEM began addressing the issue of trafficking 1991 and in the initial few years, concentrated on working towards developing an acceptable conceptual framework to address the issue in South Asia. Trafficking was identified as special area of concern at UNIFEM’s first Ministerial Level Regional Biennial Review of the Beijing in South Asia 1996. NGO’s and governments agreed that UNIFEM, with its strategic position and its unique cross-cutting mandate to address gender-related concerns, should focus increasingly on the elimination of trafficking of women and children as a priority intervention in the region.

UNODC

The Global Programme against Trafficking in Human Beings (GPAT) was designed by the UNODC (United Nation Office on Drugs and Crime) in collaboration with the United Nations Inter-Regional Crime and Justice Research Institute (UNICJRI) and launched in March 1999. GPAT assist Member States in their efforts to combat trafficking in human beings. Its highlights the involvement of organized crime groups in human trafficking and promotes the development of effective way of cracking down on the perpetrator. The GPAT’s overarching objective is to bring to the foreground the involvement of organized criminal groups in human trafficking and to promote the development of effective criminal justice related responses.
The Office of the High Commissioner for Human Rights (OHCHR) has taken active interest since 1998 in the problems of trafficking in persons, focusing in particular on trafficking in women and children. OHCHR action in the area of trafficking is currently taking place on two fronts. On the one hand, the Office continues to enhance the quality of its support to the relevant mechanisms dealing with trafficking and related exploitation. Secondly, OHCHR has developed an anti-trafficking programme. Its work in the area of trafficking is based on two fundamental principles:

- Human rights must be at the core of any credible anti-trafficking strategy, and
- Such strategies must be developed and implemented from the perspective of those who most need to have their human rights protected and promoted.

The United Nations Economic and Social Commission for Asia and Pacific (UNESCAP) is the regional arm of UN Secretariat for the Asian and Pacific regions. Its primary focus is on the economic and social development in the region. UNESCAP conducted a detailed study in an effort to raise awareness of the range of legal instrument available to governments to fight human trafficking. It was released in the form of resource guide on 19 December 2003, at the United Nations Conference in Bangkok. The publication, *Combating Human Trafficking in Asia: A Resource Guide to International and Regional Legal Instruments, Political Commitments and Recommendations*, provides
a comprehensive framework for using legal and other instruments to combat trafficking in persons, especially women and children. It portrays trafficking as multi-dimensional problems involving various forms of exploitation, including those involving human rights, slavery, slavery like practices and trafficking.

UNAIDS


UNAIDS leads, strengthens and supports an expanded response aimed at preventing the transmission of HIV, providing care and support, reducing the vulnerability of individuals and communities to HIV/AIDS and alleviating the impact of the epidemic. It has recognized trafficked persons as a group which is highly vulnerable to HIV/AIDS exposure because they are often subjected to a multitude of physical and psychological health problems. Women are specifically vulnerable to reproductive and other gender-specific health problems in trafficking situations as they have little access to reproductive health care. Therefore, UNAIDS has integrated anti-trafficking in its
HIV/AIDS programmes in an effort to prevent the spread of the epidemic across the region.

**ILO-IPEC**

The International Labour Organisation (ILO) has, for a long time, addressed child trafficking through its ‘Forced Labour Convention’, which aims to eradicate “...all works or services which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. This powerful instrument confirms child trafficking as a practice similar to slavery and calls for countries to take immediate action to secure to prohibition and elimination of the worst forms of child labour. With in the ILO, action against trafficking of children has been undertaking by international Programme for the Elimination of Child Labour (IPEC) since 1992. Guided by UN Convention on the Rights of the Childs and ILO Convention, IPEC works towards the effective elimination of trafficking of children by addressing its root cause.

**USAID**

The United States Agency for International Development (USAID) provides economic and humanitarian assistance in more than hundred countries. It has taken up trafficking in persons as an important area of concern. In South Asia, USAID has played an important role to combat trafficking under its programme, South Asia Regional Initiatives –Women’s and Children’s Equity Programme. In India, the USAID /India
Anti-Trafficking initiatives is being implemented in collaboration with the UNIFEM. It provides grant support to the policy planning process within government agencies to implement the National Plan of Action, capacity building for NGO’s, rehabilitation of children of sex workers through education, piloting of community based action, media and advocacy.

PLAN INTERNATIONAL

This is an independent organization dedicated to working with and for children. It is working in the line of CRC and believes that every child have equal chance to go to school, grow up healthy, live in safety and security and to realize his/her full potential in life. In Asia, Plan works in twelve countries spanning diverse culture and languages. In India Plan is working under the following heads: building relationship, livelihood, learning and growing up healthy, focusing on the all round development of children.

Child trafficking is seen as an issue of grave concern by Plan, which involves unscrupulous people tricking families into allowing children to move to another place where they are put to work, more often than not, either in brothels or in slave labour conditions. To increase awareness of this violation of human rights, Plan has worked with local NGO’s, organized community meetings and conducted orientation suggestions for school children to make people aware of how trafficking takes place.
Summary

International action for the protection of children in specific areas has not been a new development. There have been many treaties, particularly the conventions concluded under the aegis of the International Labour Organization, relating to child labour. There is widespread acceptance that prohibition of slavery and the slave trade (including practices similar to slavery) have now become, through the fundamental principles of international law, what are described as peremptory norms. There is general agreement that a number of gross offences against the life; integrity and dignity of human beings are prohibited in peremptory terms in all circumstances. Those include prohibitions against slavery and the slave trade, including 'practices similar to slavery'. The question that is of present concern is whether child prostitution is to be regarded as a contemporary form of slavery, or as a practice similar to slavery.

These may well be a range of situations involving the sexual exploitation of children that amount to a modern form of slavery. And of course there will be cases where resemblance to traditional types of slavery is obvious, such as when children are physically restrained. When children are kidnapped or in other ways forced into what is described as 'the sex industry, it is clear that rights of ownership over the children are being exercised, and that is so whether or not the children are paid. Because a child cannot give consent to sexual exploitation, the right of that child to the sanctity of his or her own body is violated in all cases of sexual contact. The violation involves an
assertion of a power over the child inconsistent with the child's right of inviolability. If it is necessary to seek an analogue for ownership in describing the result, it does not require a distortion of language or of legal concepts to describe the case as one where rights of ownership are being exercised. In the case of child prostitution those 'rights' are actually being exercised by the adults concerned. Those adults include not only the persons having sexual contact with the child but also those adults who are involved in lying or forcing the children into sexual service and in many cases, profiting from the availability and actions of the children which they have brought about. A review of the laws and provisions of various countries provides an impression of the growing awareness and recognition of the issues relating to trafficking across the world. Most of these countries have made efforts to amend their existing laws or to introduce new legislation in consonance with international instruments. It is, consequently, reasonable to conclude that child prostitution should be considered as a contemporary form of slavery and thus prohibited as being contrary to fundamental norms of international law.