



International Centre  
FOR MISSING & EXPLOITED CHILDREN

# U.S./EUROPEAN SUMMIT ON MISSING & EXPLOITED CHILDREN

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*ROCHE FORUM  
BUONAS, SWITZERLAND*

U.S./European Summit on Missing & Exploited Children

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## FOREWORD AND ACKNOWLEDGMENTS

As advocates for missing and exploited children, perhaps the two greatest challenges that we are confronting at the start of the 21st century are, first, the complexity of these problems, and second, that few of the world's nearly 200 countries have any kind of meaningful system in place to report, track, and recover abducted or exploited children.

We are learning that younger and younger children are being victimized, and that child-pornography images are becoming increasingly graphic and violent. A recent news article out of Russia has reported that organized criminals, extremist organizations, and terrorist groups are increasingly moving into child trafficking and child pornography to generate revenue to support their activities.<sup>1</sup> Several reasons explain this trend: children are plentiful and easily accessible; child pornography is easy and inexpensive to produce; there is a huge consumer market for it; it is enormously profitable; and there is virtually no risk, far less than drugs, guns, tobacco, etc.

We live in a world in which the old rules no longer apply. Today, child victims could be anywhere, in any country, which is further evidenced by the incidence of child abduction and missing children. This phenomenon occurs on a daily basis and affects every nation. As international travel and tourism become more frequent, and as national frontiers become increasingly irrelevant, transnational marriages become more common. It is this same trend that has made cross-border child abduction more likely to occur.

As stated so eloquently by Juan Miguel Petit, Summit participant and U.N. Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography, "[o]ur challenge is to reach the problems before the problems reach us... We need resources and political will from governments and international organizations, but we also need a map, a plan, to show that we not only have sensitivity and good will, but the capacity of developing strong action."

It is clear that for the good of the world's children, we must do more. We must work together and develop specialized, dedicated resources to protect our children. We must pledge to work together to be a unified instrument for global change. That is why, in the late Fall of 2005, we convened the inaugural U.S./European Summit on Missing and Exploited Children. The Summit marked a major step on the way to cooperation and collaboration between the United States and Europe. The goal for the duration of the Summit was to review where we are, what we have accomplished, where we are heading, and what needs to be done in order to better address the plight of missing and sexually exploited children. What follows is a synopsis of the Summit proceedings and the resulting Action Plan that was adopted by participants at the conclusion of the Summit.

On behalf of the International Centre for Missing & Exploited Children, I would like to thank Swiss healthcare company Roche for hosting us in Buonas, Switzerland; our Board of Directors and the Summit participants for their outstanding contributions; and Leila Ben Debba for her work on this report. We thank you all for having been with us and we greatly appreciate and value your commitment to protecting our world's children.



Ernie Allen  
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<sup>1</sup> Sergey Stefanov, *Russia Fights Child Porn and Terrorism on the Internet*, PRAVDA, Dec. 4, 2002, at <http://english.pravda.ru/main/2002/12/04/40373.html> (on file with the International Centre for Missing & Exploited Children).

## EXECUTIVE SUMMARY

In October 2005, representatives from 20 countries, the United Nations, European-Union institutions, and the Council of Europe participated in the first-ever U.S./European Summit on Missing and Exploited Children. They discussed, compared, and assessed the effectiveness of:

- (1) national and international legal instruments enacted to combat child abduction and the sexual exploitation of children;
- (2) national and supranational initiatives that address the increasingly complex moral, societal, and legal challenges; and
- (3) current private and non-governmental initiatives and practices that support the protection of children.

Specifically, participants sought to provide a common, universally agreed upon definition of the problem of child sexual exploitation. To this effect, they identified:

- ❖ the groups of children most vulnerable to sexual exploitation.
- ❖ four interrelated types of sexual exploitation:
  - (1) Child Pornography;
  - (2) Child Prostitution;
  - (3) Child Sex Tourism; and
  - (4) Cyber Enticement of Children.
- ❖ interrelated comparative-law issues affecting child sexual exploitation, including:
  - (1) problems associated with the definition of “child”;
  - (2) prosecutorial challenges associated with countries applying principles of double criminality; and
  - (3) the growing need to impose liability on legal persons.<sup>2</sup>
- ❖ the often overlooked, and under-appreciated, phenomenon of “sexploitation,” a cultural phenomenon driven by the marketing and entertainment industries in which various media are used to “sell” sex.

The issue of international child abduction in the form of international parental kidnapping was briefly discussed, and an overview was provided of the initiatives undertaken in the United States and Belgium to comply with the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction<sup>3</sup> (hereinafter “the Hague Convention”).

Further dialogue focused on “corporate social responsibility,” affording corporate and financial participants the opportunity to define the culture within which they operate and to provide concrete examples of their contributions to the protection of children.

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<sup>2</sup> For the purposes of this report, a “legal person” refers to a corporate entity or similar organization that maintains a legal identity separate and apart from that of the “natural persons” (individuals) who make up the corporation or organization.

<sup>3</sup> The full text of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction is available at [http://www.hcch.net/index\\_en.php?act=conventions.text&cid=24](http://www.hcch.net/index_en.php?act=conventions.text&cid=24).

## SUMMIT DISCUSSION

Participants from government, law enforcement, and nongovernmental organizations (hereinafter “NGOs”) concluded the Summit by assessing the successes and shortcomings of current efforts to address the global problem of missing and exploited children, and adopted a comprehensive and bold Action Plan.

The following pages offer a more comprehensive portrayal of the panel discussions, issues addressed, and the closing recommendations of the Summit.

### DEFINING CHILD SEXUAL EXPLOITATION

Summit participants (hereinafter “participants”) were invited to identify those groups of children who are most likely to be sexually exploited and to discuss the varying forms of sexual exploitation to which these children might be exposed and subjected. Participants also examined comparative-law issues arising out of these definitions and discussed society’s normalization of sexual exploitation through the emerging phenomenon of “sexploitation.”

#### I. Groups Most Vulnerable to Sexual Exploitation

Participants identified two major groups of children who are particularly vulnerable to sexual exploitation:

- (1) Missing children: this group includes persons under the age of 18 who are reported absent either by parents or by authorities responsible for their immediate care. Missing children include:
  - (a) children who are abducted by strangers;
  - (b) children who are abducted by a parent, family member, friend, or acquaintance;
  - (c) runaway children; and
  - (d) throwaway children.<sup>4</sup>
- (2) Migrant children: this group is composed of unaccompanied persons under the age of 18 who either voluntarily or involuntarily cross transnational borders. They are divided into the following categories:
  - (a) Voluntary child migrants who are often undocumented and have generally illegally but successfully crossed transnational borders for the purpose of finding employment, better educational opportunities, or joining other family members who may already reside in the target country;
  - (b) Involuntary child migrants who are often undocumented, including refugees, displaced children, asylum seekers, and children who are forcefully or unsuspectingly removed from their families and trafficked as human commodities across transnational borders by criminal networks.

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<sup>4</sup> “A throwaway incident occurs when a child is asked or told to leave home by a parent or other household adult, no adequate alternative care is arranged for the child by a household adult, and the child is out of the household overnight; or a child who is away from home is prevented from returning home by a parent or other household adult, no adequate alternative care is arranged for the child by a household adult, and the child is out of the household overnight.” Andrea J. Sedlak et al., *National Estimates of Missing Children: An Overview 4* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2002), at [http://www.missingkids.com/en\\_US/documents/nismart2\\_overview.pdf](http://www.missingkids.com/en_US/documents/nismart2_overview.pdf).

## II. Definitions and Concepts of Child Sexual Exploitation

Child sexual exploitation is a complex problem with its fundamental basis in a criminal act: the sexual abuse of children. There are four primary and often interrelated forms of child sexual exploitation:

- (1) child pornography<sup>5</sup> (also known as child sexual abuse images);
- (2) child prostitution;
- (3) child sex tourism; and
- (4) cyber enticement (also known as sexual grooming of children).

### A. *Child Sexual Abuse Images (Child Pornography)*

While the U.S. and European legal instruments use the term “child pornography” to refer to criminal depictions of children engaged in sexually explicit conduct, participants found the inclusion of the term “pornography” quite disturbing in its manifold implications. Child pornography must be clearly distinguished from adult pornography. Actors in adult pornography often make informed and conscious choices to participate in explicit sexual depictions, whereas children do not and cannot consent to their own sexual exploitation. Consequently, participants agreed that the use of more appropriate terminology, such as “child sexual abuse images,” in future legislative texts and by professionals who work with or for the benefit of sexually exploited children should be incorporated into the lexicon.

To define child sexual abuse images, participants referred to four legal instruments that criminalize various child-pornography offenses:

- (1) the Optional Protocol to the [United Nations] Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography<sup>6</sup> (hereinafter “Optional Protocol”);
- (2) the Council of Europe’s Convention on Cybercrime<sup>7</sup> (hereinafter “CyberCrime Convention”);

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<sup>5</sup> While the term “child pornography” implies conventional pornography with child subjects, and does not aptly describe the true nature and extent of sexually exploitive images of child victims, use of this term throughout the report should not be taken to imply that children “consented” to any sexual acts depicted in any images. The term is retained because it is the expression most readily recognized by the public at large, at this point in time, to describe this form of child sexual exploitation. Janis Wolak et al., *Child-Pornography Possessors Arrested in Internet-Related Crimes: Findings from the National Juvenile Online Victimization Study* vii, n.1 (Alexandria, Virginia: National Center for Missing & Exploited Children, 2005) [hereinafter *Child-Pornography Possessors*].

<sup>6</sup> *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography*, G.A. Res. 54/263, Annex II, U.N. Doc. A/54/49, Vol. III, entered into force Jan. 18, 2002, at <http://www.unhcr.ch/html/menu2/6/crc/treaties/opsc.htm> [hereinafter *Optional Protocol*].

<sup>7</sup> *Convention on Cybercrime*, 109th Sess., ETS No. 185 (Nov. 23, 2002), at <http://conventions.coe.int/Treaty/en/Treaties/Html/185.htm> [hereinafter *Cybercrime Convention*].

- (3) the Council of the European Union’s Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography<sup>8</sup> (hereinafter “Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography”); and
- (4) the Federal code of the United States.<sup>9</sup>

The various definitions of “child pornography” include, but are not limited to:

- ❖ any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes<sup>10</sup>;
- ❖ pornography materials that visually depicts: a minor engaged in sexually explicit conduct; a person appearing to be a minor engaged in sexually explicit conduct; realistic images representing a minor engaged in sexually explicit conduct<sup>11</sup>;
- ❖ pornographic materials that visually depicts or represents: a real child involved or engaged in sexually explicit conduct, including lascivious exhibition of the genitals or the pubic area of a child; a real person appearing to be a child involved or engaged in sexually explicit conduct; or realistic images of a non-existent child involved or engaged in sexually explicit conduct<sup>12</sup>; and
- ❖ any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where: the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.<sup>13</sup>

The attention these legal instruments focus on child sexual abuse images comes, in part, as a response to the alarmingly rapid growth in demand for such images. Child pornography is a multi-billion dollar industry,<sup>14</sup> making it one of the most worrisome forms of child sexual exploitation to date. Furthermore, the market for child sexual abuse images has become more diversified, specialized, and extreme. Whereas in the past these images typically involved naked children posing in various positions or taking part in

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<sup>8</sup> *Council Framework Decision 2004/68/JHA*, Official Journal of the European Union L 13/44 (Jan. 20, 2004), at [http://www.coe.int/t/e/legal\\_affairs/legal\\_cooperation/fight\\_against\\_sexual\\_exploitation\\_of\\_children/4\\_international\\_instruments/EU%20Framework%20decision.pdf](http://www.coe.int/t/e/legal_affairs/legal_cooperation/fight_against_sexual_exploitation_of_children/4_international_instruments/EU%20Framework%20decision.pdf) [hereinafter *Framework Decision on the Sexual Exploitation of Children and Child Pornography*].

<sup>9</sup> 18 U.S.C. § 2256(8) (2005).

<sup>10</sup> *Optional Protocol*, *supra* note 6, at Art. 2.

<sup>11</sup> *Cybercrime Convention*, *supra* note 7, at Art. 9(2).

<sup>12</sup> *Framework Decision on the Sexual Exploitation of Children and Child Pornography*, *supra* note 8, at Art. 1(b).

<sup>13</sup> 18 U.S.C. § 2256(8).

<sup>14</sup> See ECPAT International, *Violence Against Children in Cyberspace* 31 (2005), at <http://www.ecpat.net/eng/publications/Cyberspace/index.asp>.

naked beauty pageants, presently they have become far more sinister in depicting the sexual abuse and sexual torture of babies, toddlers, and pre-pubescent children.<sup>15</sup>

Commercial web sites provide easier access to child pornography and the Internet has allowed like-minded offenders globally to readily communicate with the intent to: offer a specific child for sexual abuse; seek a child for sexual abuse; incite another to sexually abuse a child; and meet offline to share children with each other.

Participants noted that it has become increasingly clear that this type of child sexual abuse does not exist in a vacuum; it is frequently woven into other types of child sexual exploitation. For example, pornographers often seek to victimize children who are already working in prostitution and, more specifically, children prostituted for the benefit of sex tourists. Pimps resort to showing pornography (both adult and child) to young victims of prostitution as a means of normalizing the prostitution, thus weakening a child's resistance to the practice. Once a child becomes a victim of prostitution, a pimp may create pornographic images of the child. The pornographic images then become a mechanism that offers a pimp complete control over the child victim. By threatening to send these images to relatives or friends, a pimp ensures the child victim's complete submission.

### *B. Child Prostitution*

Article 2 of the Optional Protocol, which has been signed by the United States and numerous European countries, defines child prostitution as "...the use of a child in sexual activities for remuneration or any other form of consideration."<sup>16</sup> From the onset, participants thought it of the utmost importance to emphasize that child prostitution is not committed by the child but by pimps, traffickers, and those individuals who purchase and demand sexual services from children, or who provide them with necessities for survival, such as food and shelter, as a means to extort sexual services.

Child prostitution is a growing problem in the United States, where it is estimated that, between 1999 and 2001, 293,746 children became victims of prostitution.<sup>17</sup> The average age of child victims of prostitution is 14, while some are as young as 9 years old.<sup>18</sup> Though concrete estimates are not available in Europe, there was a general consensus shared among European participants that the problem has grown and is currently driven by the increased numbers of children who are being trafficked across Europe's open borders.

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<sup>15</sup> Victims portrayed in the images of child pornography are getting younger and younger and the images themselves are becoming more graphic and more violent. A recent study out of the United States involving individuals arrested for Internet-related crimes involving child pornography over a one-year period demonstrated that 83% of arrested child-pornography possessors had images of children 6 to 12 years old; 39% had images of children 3 to 5 years old; and 19% had images of infants and toddlers under age 3. 92% had images of minors focusing on genitals or showing explicit sexual activity; 80% had pictures showing the sexual penetration of a child, including oral sex; and 21% had child pornography depicting violence such as rape, bondage, and torture. Most of these images involved children who were gagged, bound, blindfolded, or otherwise suffering sadistic sex. *Child-Pornography Possessors*, *supra* note 5, at 4-5.

<sup>16</sup> *Optional Protocol*, *supra* note 6, at Art. 2(b).

<sup>17</sup> R.J. Estes and Neil A Weiner, *The Commercial Sexual Exploitation of Children in the U.S., Canada and Mexico* 11-12 (Philadelphia, Pennsylvania: University of Pennsylvania School of Social Work, 2001).

<sup>18</sup> Eva J. Klain, *Prostitution of Children and Child-Sex Tourism: An Analysis of Domestic and International Responses* 2 (Alexandria, Virginia: National Center for Missing & Exploited Children, 1999).

Participants enumerated a list of factors, which vary from country to country, that may affect child prostitution. Vulnerable children often come from dysfunctional families, have been subjected to previous physical or sexual abuse, or have acquired addictive substance abuse problems. Runaway and throwaway children and children separated from their families as a result of war or natural disasters are at an exceedingly high risk of falling prey to pimps and traffickers. Children born into abject poverty, in areas where receiving an education is not an option and where employment is scarce, are encouraged to work as prostitutes, and a number are sold by their own parents into prostitution rings. The demand for child prostitutes has also been driven by the emergence of the HIV/AIDS virus. Out of fear of being infected with HIV/AIDS by adult prostitutes, clients may request young, virgin children.<sup>19</sup>

### C. Child Sex Tourism

Child sex tourism essentially involves traveling to another country (or place within a country) for the purpose of engaging in sexual relations with a child. Participants made references to various international and national instruments that address the problem of sex tourism. For example, Article 10.1 of the Optional Protocol specifically directs State Parties to "...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...child sex tourism."<sup>20</sup>

In May of 1999, the European Commission communicated to several E.U. bodies its concern over the scale and seriousness of the problem of child sex tourism.<sup>21</sup> In its response to the communication by the European Commission, the European Parliament stated that child sex tourism is a criminal act closely linked to other forms of child sexual exploitation, such as prostitution and pornography.<sup>22</sup> The European Parliament also urged the European Commission to identify those essential elements required to criminalize and combat sex tourism.<sup>23</sup>

The United States criminalizes travel into the United States for purposes of engaging in sexual activity with a child as well as travel by U.S. citizens or alien permanent residents for the purpose of engaging in illegal sexual activity with a child under the age of 18.<sup>24</sup> In 2003, U.S. legislation was strengthened by the

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<sup>19</sup> See generally Office of the United Nations High Commission for Human Rights, *HIV/AIDS and the Sale of Children, Child Prostitution, and Child Pornography: Commission on Human Rights' Resolution on HIV/AIDS*, at <http://www.ohchr.org/english/issues/children/rapporteur/hiv.htm>.

<sup>20</sup> *Optional Protocol*, *supra* note 6, at Art. 10(1).

<sup>21</sup> See *Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the Implementation of Measures to Combat Child Sex Tourism*, COM(1999)262 – C5-0096/999-1999/2097 (COS) (May 26, 1999), at [http://ec.europa.eu/enterprise/services/tourism/tourism-publications/coms/com99\\_262en.pdf](http://ec.europa.eu/enterprise/services/tourism/tourism-publications/coms/com99_262en.pdf).

<sup>22</sup> See *European Parliament Resolution on the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the Implementation of Measures to Combat Child Sex Tourism*, Official Journal of the European Union C738/80 (Dec. 29, 2000), at [http://www.minori.it/cd/cd\\_lucca\\_2003/4/4.2.2\\_en.pdf#search='european%20parliament%20resolution%20on%20child%20sex%20tourism](http://www.minori.it/cd/cd_lucca_2003/4/4.2.2_en.pdf#search='european%20parliament%20resolution%20on%20child%20sex%20tourism).

<sup>23</sup> See *id.*

<sup>24</sup> 18 U.S.C. §2423(b) (2005).

passage of the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act<sup>25</sup> (hereinafter “the PROTECT Act”), which allows for the prosecution of persons who engage in illegal sexual activities with children while traveling abroad, regardless of whether they formed the intent to do so prior to their departure from the United States.<sup>26</sup> Punishment for such an offense is imprisonment for a term of up to 30 years.<sup>27</sup>

Participants stressed the link between child sex tourism and other forms of child sexual exploitation, particularly child pornography and prostitution. An example was provided: individuals traveling abroad to engage in sexual acts with children who are uncovered because of the child pornography that they themselves produce while abroad. Participants spoke of anecdotal evidence that shows children who are prostituted for the benefit of sex tourists are not only very young but have often grown up in brothels and are the children of adult prostitutes. Children are also trafficked to tourist destinations for prostitution, both within national borders and internationally.

Participants further pointed out that the demand for child pornography and child prostitution is being supplied, in part, through trafficking in human beings. This has prompted the United Nations to recognize in its Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime,<sup>28</sup> (hereinafter “Trafficking Protocol”) the link between demand for exploitive activities and trafficking. The Trafficking Protocol urges countries to adopt measures aimed at discouraging the demand for the exploitation of women and children that leads to trafficking.

#### *D. Cyber Enticement/Grooming*

Without referencing any particular legal instrument, participants defined cyber enticement as the use of the Internet by potential sex offenders and child predators to lure or persuade a child to meet offline for the purpose of engaging in a sexual relationship.<sup>29</sup>

Participants noted that the increase in the number of predators who contact children in chat rooms is incredibly troublesome.<sup>30</sup> Generally, enticers/groomers “seduce” their child victims by showering them with emotional and monetary attention until they gain their trust. Thereafter, enticers/groomers will use

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<sup>25</sup> *Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003*, Pub. L. No. 108-21, 117 Stat. 650, (2003) [hereinafter *PROTECT Act*].

<sup>26</sup> 18 U.S.C. § 2423(c) (2005).

<sup>27</sup> *Id.*

<sup>28</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, G.A. Res. 25, Annex II, U.N. Doc. A/45/49, Vol. I, adopted and open for signature, ratification, and accession Nov. 15, 2000, at <http://www.ohchr.org/english/law/protocoltraff.htm> [hereinafter *Trafficking Protocol*].

<sup>29</sup> While the *Cybercrime Convention* is indeed an important European instrument, it does not cover grooming and enticement on the Internet. In the United States, cyber enticement is addressed in 18 U.S.C. § 2425 (2005).

<sup>30</sup> See e.g., David Finkelhor et al., *Online Victimization; A Report to the Nation's Youth* viii (Alexandria, Virginia: National Center for Missing & Exploited Children, 2000); see also, Juan Miguel Petit, *2005 Report of the Special Rapporteur to the Commission on Human Rights*, E/CN.4/2005/78 (Dec. 23, 2004), at <http://daccessdds.un.org/doc/UNDOC/GEN/G05/100/19/PDF/G0510019.pdf?OpenElement>.



child pornography to lower children’s inhibitions towards sex. Once this is accomplished, it is easier to elicit cooperation and consent from compliant victims who, by this time, believe they are romantically involved with their enticers/groomers and are consequently willing to leave their homes for a face-to-face meeting.

### III. Comparative Law Issues Relating to Child Sexual Exploitation

#### A. Discrepancies in the Definition of “Child”

While Article 1 of the U.N. Convention on the Rights of the Child defines a child as “every human being below the age of eighteen years,”<sup>31</sup> most countries distinguish between the age of majority, which is often 18, and the age at which a child can consent to sexual activity, which varies among countries. This distinction is very problematic and an obstacle to the consistent and harmonized international protection of children from sexual exploitation.

In countries that require double criminality,<sup>32</sup> for example, agreement on a uniform age of sexual consent is particularly important, without which the prosecution of child sexual exploitation may never take place. If the offender is a national of a country that requires double criminality, the offender will not be prosecuted unless the act committed is a crime in both the offender’s home country as well as the country where the act itself occurs.

With regards to this issue, participants agreed that while a child under the age of 18 may consent to sexual relations, they emphasized that such a child is legally incapable of consenting to any form of sexual exploitation. Consequently, 18 should be the uniform age of consent in situations where children are victims of pornography, prostitution, sex tourism, sex trafficking, and cyber enticement.

AGE OF CONSENT TO SEXUAL ACTIVITY <sup>33</sup>		AGE OF SIMPLE MAJORITY <sup>34</sup>	
Albania	Not determined by legislation	Albania	14
Austria	14	Austria	18
Belgium	16	Belgium	18
Cyprus	16	Cyprus	18
Czech Republic	15	Czech Republic	18
Denmark	15	Denmark	18
Estonia	14	Estonia	18
Finland	16	Finland	18
France	15	France	18
Germany	14	Germany	18
Greece	15	Greece	18

<sup>31</sup> *Convention on the Rights of the Child*, G.A. Res. 44/25, Annex I, U.N. Doc. A/RES/44/25, entry into force Sept. 2, 1990, at <http://www.ohchr.org/english/law/pdf/crc.pdf>.

<sup>32</sup> See Subsection B below for a discussion and definition of double criminality.

<sup>33</sup> This data was gathered from Legislation of Interpol Member States on Sexual Offences Against Children, available at, <http://www.interpol.int/Public/Children/SexualAbuse/NationalLaws/Default.asp>.

<sup>34</sup> *Id.*

AGE OF CONSENT TO SEXUAL ACTIVITY (continued)		AGE OF SIMPLE MAJORITY (continued)	
Hungary	14	Hungary	18
Ireland	17	Ireland	18
Italy	14	Italy	18
Latvia	16	Latvia	18
Lithuania	15	Lithuania	18
Malta	18	Malta	18
The Netherlands	16	The Netherlands	18
Poland	15	Poland	18
Portugal	18	Portugal	18
Romania	14	Romania	18
Slovakia	16	Slovakia	18
Slovenia	15	Slovenia	18
Spain	13	Spain	18
Sweden	15	Sweden	18
United Kingdom	16	United Kingdom	18
United States	Varies by state	United States	18

### *B. Double Criminality*

It is very encouraging that there has been an increase in the number of countries that have enacted extraterritorial legislation that allows for the prosecution of sex-offense crimes occurring outside of an offender’s home country; however, the effectiveness of these extraterritorial laws is often questioned in countries that require double criminality. For instance, in order to apply extraterritorial laws in certain European countries, the sexual offense committed against a “child” must be criminalized both in the offender’s home country as well as in the country where the act took place. In sex-tourism cases, the applicable laws may allow an offender to take advantage of this legal loophole to “shop around” for destination countries that do not criminalize the sexual exploitation of children; therefore, just as the majority of participants agreed to the need for a uniform age of consent, they also agreed to the necessity of abolishing the double-criminality requirement when specifically dealing with child sexual exploitation.

### *C. Imposing Liability on Legal Persons<sup>35</sup>*

Liability should not only be imposed on natural persons who commit crimes involving child sexual exploitation. The acts of legal persons who directly or indirectly contribute to or facilitate the commission of these crimes should be held accountable as well. For example, Internet Service Providers (hereinafter “ISPs”), travel agencies, employment agencies, adoption agencies, advertising agencies, hotels, restaurants, bars, taxi companies, and sex-tour operators, among others, must be held criminally liable for any of their activities that involve or lead to the exploitation of children.

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<sup>35</sup> See *supra* note 2.

To this effect, Operative Paragraph 4 of the U.N. Commission on the Status of Women’s Resolution on Eliminating Demand for Trafficked Women and Girls for All Forms of Exploitation “encourages the business sector, in particular the tourism industry and Internet providers, to develop or adhere to codes of conduct with a view to preventing trafficking in persons and protecting the victims of such traffic, especially for commercial sexual exploitation, and promoting their rights, dignity and security, including through collaboration with governmental and non-governmental organizations.”<sup>36</sup>

Article 3 of the European Council Decision of 29 May 2000 to Combat Child Pornography on the Internet provides that “[M]ember States shall engage in constructive dialogue with industry and examine appropriate measures, of a voluntary or a legally binding nature, to eliminate child pornography on the [I]nternet.”<sup>37</sup> Specifically, Member States are required to examine measures that, among other things, “would place [I]nternet providers under a duty to...withdraw from circulation child pornography material of which they have been informed or of which they are aware and which is distributed through them.”<sup>38</sup>

Furthermore, Article 6 of the European Council’s Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography specifically addresses the liability of legal persons, while Article 7 lists the varying types of sanctions that can be imposed on legal persons.<sup>39</sup>

Though legislation in the United States does not require ISPs to specifically monitor their web sites for child pornography, it does require ISPs, once they “obtain knowledge of child pornography,” to report the suspected child pornography to the National Center for Missing & Exploited Children (hereinafter “NCMEC”).<sup>40</sup>

As a prevention mechanism, a number of participants emphasized the importance of having the appropriate legal persons adopt a “Code of Conduct.” Participants further suggested that the provisions contained within the Code of Conduct should, among other things, allow for the:

- ❖ establishment of a corporate ethical policy against the commercial sexual exploitation of children;
- ❖ training of personnel in trafficking countries of origin and sex-tourism travel destinations;
- ❖ introduction of clauses in contracts with suppliers clearly stating a common repudiation of the sexual exploitation of children; and

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<sup>36</sup> The complete text of the U.N. Commission on the Status of Women’s Resolution on Eliminating Demand for Trafficked Women and Girls for All Forms of Exploitation is available at <http://www.state.gov/g/tip/rls/fs/2005/43630.htm>.

<sup>37</sup> *Council Decision of 29 May 2000 to Combat Child Pornography on the Internet*, Official Journal of the European Union 138 (June 9, 2000), at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000D0375:EN:HTML> [hereinafter *Council Decision to Combat Child Pornography on the Internet*].

<sup>38</sup> *Id.*

<sup>39</sup> *Framework Decision on the Sexual Exploitation of Children and Child Pornography*, *supra* note 7, Arts. 6-7.

<sup>40</sup> 42 U.S.C. § 13032(b)(1) (2005).

- ❖ dissemination of information regarding the illegality and criminality of child sexual exploitation to all travelers.

Such a Code already exists for members of the travel industry; however, few entities have signed on.<sup>41</sup>

#### *D. The Burgeoning Phenomenon of Sexploitation<sup>42</sup>*

Today, there is emerging the normalization of a culture of sexual exploitation. Relationships between offenders and victims and pimps and prostitutes are promoted and extolled. In the United States, this phenomenon has come to be known as the “pimp-and-‘ho (whore)” culture. Children’s almost constant exposure to this culture, which is often promulgated by the entertainment and advertising industries, has contributed to a drastic change in self-image and the value systems of pre-teens and adolescents. Teenagers today commonly believe that fellatio is not sex because it does not involve sexual intercourse or penetration, but rather a type of “normal” sexual behavior; however, this ill-informed notion is extremely disconcerting for many reasons, among which is the fact that one of the most typical sexual acts found in adult and child pornography on the Internet involves fellatio.

The calculated promotion of the “pimp-and-‘ho” culture on a global scale has contributed to its normalization and even to its glorification. The venues in which sexploitation exists are endless.

#### ❖ **Clothing Industry**

- In the United States, one particular garment manufacturer markets gear labeled “Feel Me,” a slogan that encourages groping, to adolescents.
- A Halloween costume company marketed pimp costumes to six- to ten-year-old children. The \$40 USD price tag was in no way a deterrent, given that this particular costume was sold out.
- A clothing company marketed thongs for six-year-old girls under the name “Eye Candy,” with a lipstick imprint on front of the thong. “Eye Candy” is a term used in adult-pornography magazines to announce a centerfold layout of a nude woman.

#### ❖ **Telecommunications Industry**

- In Canada, a telephone company recently received negative press for marketing ring tones called “pimp tones.” One particular ring tone featured the sound made when a person is slapped, followed by a woman crying. Another ring tone was associated with a person talking and saying “pick up the phone [expletive].”

#### ❖ **Video Games**

- Sexploitation is particularly present in the video industry. One of the most popular games on the market today is entitled “Grand Theft Auto: Vice City.” This game rewards players for beating up law-enforcement officers and engaging in sex with a prostitute, beating her up, and taking her money.

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<sup>41</sup> Additional information on the travel and tourism industry’s code of conduct is available at [www.thecode.org](http://www.thecode.org).

<sup>42</sup> This section is based on the Summit presentation of Dr. Sharon Cooper, Forensic Pediatrician (Power Point Presentation on file with the International Centre for Missing & Exploited Children).

## ❖ Music Videos

- Many of the music videos, particularly those referred to as Rap/Hip-Hop, promote the glorification and the normalization of the relationship between a pimp and a prostitute. It is quite common to see lap dancing, group sex, children abusing substances, and scantily-clad women dancing in front of the bright lights of expensive cars. This imagery is highly characteristic of sexual exploitation.

The responses to combating the normalization of sexual exploitation, while still very nascent, are beginning to emerge in the United States. For example, the National Basketball Association (hereinafter “NBA”), recognizing the influence basketball players have on children and teenagers, has imposed a dress code that prohibits players from wearing clothes and jewelry characteristic of pimps.

While the NBA example provides an encouraging model, more national and international sensitization efforts are required to eliminate the normalization of exploitation. Individuals, families, communities, and society at large must not turn a blind eye to this normalization process nor underestimate its effect on the healthy development of the world’s youth.

## INTERNATIONAL FAMILY ABDUCTION

### I. U.S. Perspective<sup>43</sup>

In 1994, the U.S. Department of State (hereinafter “DOS”) established the Office of Children’s Issues (hereinafter “OCI”) to specifically handle international child abductions committed by a family member and international adoptions. With respect to international abductions, OCI currently estimates that there about 1,100 cases in which American-citizen children have been abducted by a non-custodial parent from the United States to another country, or in which the child is retained by a non-custodial parent abroad in contravention of the wishes or expectations of the custodial parent.<sup>44</sup>

As the United States has ratified the Hague Convention,<sup>45</sup> it firmly supports both the fundamental principles calling for the immediate return of a child to his/her habitual place of residence and as well as those countries that are equally compliant to the Hague Convention. To assist in its daunting tasks, OCI entered into an agreement with NCMEC to handle incoming family-abduction cases on its behalf. In order to protect this partnership, DOS recently asked Congress to pass legislation offering NCMEC limited liability so that it could continue to provide OCI with the necessary case management support to ensure U.S. compliance with the Hague Convention.<sup>46</sup>

When a child is wrongfully removed from the United States to a foreign country, OCI Country Officers frequently face the following challenges:

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<sup>43</sup> This section is based on the oral statement at the Summit by Ambassador Maura Harty, Assistant Secretary of Consular Affairs, U.S. Department of State.

<sup>44</sup> Additional information on the Office of Children’s Issues is available at [http://travel.state.gov/family/abduction/abduction\\_580.html](http://travel.state.gov/family/abduction/abduction_580.html).

<sup>45</sup> The United States ratified the Hague Convention on 1 July 1988.

<sup>46</sup> See 42 U.S.C. § 11606(f)(1) (2006).

- ❖ The country to which the child has been removed is unable or unwilling to intervene when the child is in danger.
- ❖ The country to which the child has been removed is unable to locate the abducted child within its territorial borders.
- ❖ The country to which the child has been removed does not criminalize international parental abductions.
- ❖ The country to which the child has been removed has not ratified the Hague Convention.
- ❖ The country to which the child has been removed has a religious or a combination of religious and secular legal systems.

In certain cases, OCI has signed Memoranda of Understanding (hereinafter “MOUs”) with countries that are not signatories to the Hague Convention. The governments of Egypt and Lebanon, for example, have signed MOUs with the United States to address the issue of access, not as an absolute end, but rather as a means of beginning a constructive dialogue.

The application of punitive measures in cases of international child abductions is not limited to an abductor. Relatives who enable or continue to provide the abductor with assistance prolonging the wrongful retention of a child will most likely lose their visa and travel privileges to the United States.

Lastly, parents who fear their children are at a risk of being abducted can receive preventive assistance from OCI officers and access preventative information through OCI’s web site, which last year alone was visited by 170 million people.

## II. Belgian Perspective<sup>47</sup>

In Belgium, and as a result of the Dutroux affair,<sup>48</sup> officials realized the seriousness with which abduction cases, including family abductions, must be addressed. Consequently, officials undertook to provide the Belgian Central Authority, which handles international abduction cases, the necessary support it needed to carry out its obligations under the Hague Convention.

With a limited team of eight jurists and psychologists, the Belgian Central Authority first built a more constructive dialogue with Child Focus in order to learn from their rich experience. It then created three

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<sup>47</sup> This section is based on the Summit presentations of Kristine Kloeck, Director General, (Power Point Presentation on file with the International Centre for Missing & Exploited Children) and Michel Bruyère, a victim parent and Board member of Child Focus (Power Point Presentation on file with the International Centre for Missing & Exploited Children).

<sup>48</sup> In 1996, Belgium was shaken by what is known as the tragic “Dutroux affair.” Over the course of several years, Marc Dutroux, an unemployed electrician and father of three, committed a series of kidnappings, rapes, and killings of at least six known teenage girls. As the atrocities of the crimes were disclosed, the public became very critical of the way the authorities handled the case. Over 300,000 Belgian citizens expressed their anger in the now-legendary “White March.” Shortly thereafter, Belgian Prime Minister Jean-Luc Dehaene visited NCMEC. He asked NCMEC’s President, Ernie Allen, if he would establish a centre in Brussels at which point Ernie answered, “you do not need an American solution to this problem, you need a Belgian solution. But we will help.” NCMEC worked with the Belgian government, private-sector leaders, victim parents, and law enforcement to create Child Focus, the European Centre for Missing and Sexually Exploited Children, which is located in Brussels.

working groups in the judicial, social, and psychological domains to mediate difficult cases. Cases involving the Hague Convention are now referred to judges with specialized expertise. Belgium has also established liaison magistrates, especially with countries that pose certain legal difficulties.

## CORPORATE SOCIAL RESPONSIBILITY

An increasing number of corporations today tie in their economic success with the use of their resources and services to promote a better and safer society from which all persons can benefit. Acting in a socially-responsible way has meant utilizing both monetary and industry know-how to assist individuals, NGOs, and governments to prevent and combat the sexual exploitation of children. Participants provided three models to illustrate the successes achieved through corporate social responsibility, as well as to highlight new areas in which corporations can deliver their invaluable assistance.

### I. Microsoft Model (United States)<sup>49</sup>

Realizing the dangers the Internet poses to individuals' privacy and security, the Microsoft Corporation requires all products to go through a security review and security testing before authorizing their launch. To implement this objective, Microsoft has partnered with privacy organizations and industry associations to address the issue of security and the protection of children. Microsoft has taken the lead in anti-spam alliances. It has also worked closely with the U.S. Internet Service Provider Association, governments, law-enforcement agencies, and NGOs to develop processes that would ensure ISPs are in fact reporting child pornography to NCMEC.

Microsoft has created very specialized technology features, such as parental controls, where, for example, parents may obtain activity reports detailing their children's activities on the Internet (*i.e.*, the types of web sites and chat rooms visited); therefore, if a parent does not wish for his/her child to send e-mails to certain e-mail addresses or to instant message a specific person, the parent has the ability to block these activities. Microsoft has also introduced free anti-spyware and anti-spam downloads and encourages parents to download this software to minimize the chances of children receiving unsolicited messages of an undesirable sexual nature.<sup>50</sup>

Microsoft sponsors technology centers around the world for adults and children alike. In these centers, children are not authorized to use computers until they complete Microsoft's Internet Safety Program.<sup>51</sup> Microsoft also provides a number of brochures on protecting children online.

Finally, Microsoft, in collaboration with the International Centre for Missing & Exploited Children and Interpol, continues to conduct an international training program for law-enforcement personnel entitled "Computer Facilitated Crimes Against Children." As of December 2006, this collaboration has led to the training of more than 1,800 law-enforcement officers from 94 countries.

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<sup>49</sup> This section is based on the Summit presentation of Pamela Portin, Director of Children's Online Safety, Microsoft Corporation (Power Point Presentation on file with the International Centre for Missing & Exploited Children).

<sup>50</sup> In 2001, 19% of children who used the Internet received unwanted sexual solicitations. See Mitchell, K. J., Finkelhor, D., & Wolak, J. (2001) *Risk factors for and impact of online sexual solicitation of youth*. Journal of the American Medical Association, 285(23), pp. 3011-3014.

<sup>51</sup> Additional information on Microsoft's child protection program is available at <http://security.msn.com/protectfamily.armx>.

## II. Belgacom Model (Belgium)<sup>52</sup>

Following the disappearances and murders of Melissa Le Jeune and Julie Russo, in consideration of the unbearable anguish born by parents of missing and exploited children, and in the spirit of its existing corporate-citizenship model, Belgacom provided the necessary funding for the creation of an office space to house Child Focus. Additionally, Belgacom has made available to Child Focus two employees who provide telecommunications knowledge and skills.

In 2004, Belgacom launched the “Allo Parents” project. First, it provided a call center for reporting lost children. It then partnered with over 100 stores to provide children individual badges containing important identifying information that can be used in case the child is lost and unable to recall his or her parents’ full names or address.

Aware of its responsibility as an Internet access provider, Belgacom also became involved with Child Focus’ campaign to combat child pornography on the Internet. Visitors to the Belgacom and its subsidiary Skynet’s portal sites are provided with electronic forms for the purpose of reporting web content that is considered to be child pornography.

Belgacom’s “Magic Desktop” was created specifically for children between the ages of 2 and 12. This program allows parents to set up their own Internet controls so that children can only access Internet sites that have been pre-screened and authorized by their parents.

Finally, through the “Helping Hand” initiative, Belgacom employees are encouraged to provide contributions to various social projects, allowing them to fulfill their social responsibilities. In fact, in 2004, Belgacom replaced traditional greeting cards with electronic ones, using the funds allocated for the purchase and mailing of greeting cards to support various NGOs. In this instance, Belgacom employees chose, by means of a general vote, which NGOs were to receive the funds.

## III. Febelfin (Belgium)<sup>53</sup>

Payments for child pornography on the Internet can be made in a variety of ways, including electronic purses,<sup>54</sup> e-cash, debit cards, credit transfers, direct debits, and credit cards. As chief operators of payment systems, banks may be able to prevent their use for the purchase of child pornography; however, this must be accomplished within very strict legal frameworks. Such legal frameworks already exist, chiefly in the Financial Action Task Force on Money Laundering<sup>55</sup> and the U.N. Convention on the Rights of the

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<sup>52</sup> This section is based on the Summit presentation of Walter Gelens, Head of Marketing, Belgacom Group (Power Point Presentation on file with the International Centre for Missing & Exploited Children). The Belgacom Group is the leading telecommunications company in Belgium.

<sup>53</sup> This section is based on the Summit presentation of Jozef Van Den Nieuwenhof, Chief Operating Officer, Febelfin (Power Point Presentation on file with the International Centre for Missing & Exploited Children). Founded on 28 March 2003, Febelfin is the Federation of six trade associations from the Belgian financial industry: Belgian Association of Asset Managers and Investment Advisers; Belgian Association of Investment Funds and Companies; Belgian Association of Stock Exchange Members; Belgian Bankers’ Association; Belgian Leasing Association; and Professional Union of Credit Providers.

<sup>54</sup> An “electronic purse” is a stored-value card, a multipurpose prepaid card about the size of a credit card. See John Wenninger and David Laster, *The Electronic Purse*, CURRENT ISSUES IN ECONOMICS AND FINANCE, April 1995, at [http://www.ny.frb.org/research/current\\_issues/ci1-1.pdf](http://www.ny.frb.org/research/current_issues/ci1-1.pdf).

<sup>55</sup> Information on the Financial Action Task Force on Money Laundering is available at <http://www.fatf-gafi.org>.



Child.<sup>56</sup> Yet even within this powerful legal framework, banks face a dichotomy between the need to respect privacy laws and the desire to prevent child sex offenders from utilizing their payment systems to further their illegal activities.

Current privacy laws do not allow banks to know whether or not the person to whom they are issuing a card is a known sex offender. Banks are not authorized to verify the content of credit transfers but may, during the course of a judicial inquiry, deliver the information. Furthermore, while every merchant utilizing the Internet is required to provide an economic sector code, banks cannot verify whether the beneficiary is indeed providing the correct code. One particular payment system remains completely uncontrolled, unaccounted for, and unregulated despite the enormous funds involved; it is known as the *Hawala*.<sup>57</sup>

The following concerted actions are needed in order for banks to fulfill their corporate social responsibilities:

- ❖ An international registry of shareholders would help identify those who are hiding behind these general trading companies because certain shareholders could very well belong to organized crime networks.
- ❖ Banks should not be required to singularly control operations involving the sex industry as a whole because their controls are automated and they are not judicial authorities. For this, banks need an official form of automated blacklisting when processing the millions of financial transactions they control.
- ❖ As banks are not in favor of reporting suspicious customers to the police, an intermediate private/public filter is necessary to assess the information provided by banks and to take appropriate legal actions.
- ❖ Cyberspace lacks any type of architecture; therefore, there is a pressing need to create a code through which it can be governed.<sup>58</sup>

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<sup>56</sup> Convention on the Rights of the Child, *supra* note 31.

<sup>57</sup> The Hawala system is "...an informal channel for transferring funds from one location to another through service providers – known as hawaladars – regardless of the nature of the transaction and the countries involved. While hawala transactions are mostly initiated by emigrant workers living in a developed country, the hawala system can also be used to send funds from a developing country, even though the purpose of the funds transfer is usually different." Mohammed El-Qorchi, *Hawala*, MAGAZINE OF THE IMF, December 2002, at <http://www.imf.org/external/pubs/ft/fand/2002/12/elqorchi.htm>.

<sup>58</sup> "We can – we must – choose what kind of cyberspace we want and what freedoms we will guarantee. These choices are all about architecture: about what kind of code will govern cyberspace, and who will control it. In this realm, code is the most significant form of law, and it is up to lawyers, policy makers and especially citizens to decide what values that code embodies." Lawrence Lessing, *Code and other Laws of Cyberspace* (New York, New York: Basic Books, 1999).

## I. United States

The last ten years in the United States have been characterized by momentous progress in dealing with all forms of child sexual exploitation. In 1996, the U.S. Congress established the Exploited Child Unit (ECU) within NCMEC. The ECU provides, among other services:

- ❖ technical assistance to federal, state, local, and international law-enforcement agencies investigating child sexual-exploitation cases; and
- ❖ a database of law-enforcement officers who have developed an expertise in investigating cases of child sexual exploitation.

Following the creation of the CyberTipline within NCMEC in 1998, ECU began processing reports received from the general public and ISPs pertaining to the sexual exploitation of children. Most significantly, the ECU is collaborating with specialized units within the Federal Bureau of Investigation, U.S. Immigration and Customs Enforcement, U.S. Postal Inspection Service, and U.S. Secret Service regarding the leads it receives through the CyberTipline.<sup>59</sup> Additionally, NCMEC's Child Victim Identification Program (CVIP) serves as the national clearinghouse for child-pornography cases across the country and is the main point of contact for international agencies about child-pornography victims.<sup>60</sup> NCMEC is also partnering with Interpol on victim identification. In 2002, NCMEC began providing Interpol with case summaries, law-enforcement points-of-contact, sanitized images, and hash values of children who have been identified within the United States, which are then entered into Interpol's database.

From a legislative perspective, the PROTECT Act of 2003 has provided law-enforcement agencies and prosecutors with much needed support to combat the sexual exploitation of children. First, it codified the national coordination of state and local AMBER (America's Missing Broadcast Emergency Response) Plans.<sup>61</sup> The AMBER Plan allows broadcasters and transportation authorities to immediately disseminate information about child abductions in progress to the public. Since its creation, it has enabled entire communities to assist in the search for and safe recovery of 300 children.<sup>62</sup> Second, the PROTECT Act increased the penalties for the sexual exploitation of children, imposing life imprisonment for offenders

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<sup>59</sup> Additional information on the CyberTipline is available at [http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en\\_US&PageId=169](http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=169).

<sup>60</sup> Additional information on the Child Victim Identification Program is available at [http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en\\_US&PageId=2444](http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=2444).

<sup>61</sup> See *PROTECT Act*, *supra* note 25, at § 301.

<sup>62</sup> See AMBER Plan webpage at [http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en\\_US&PageId=991](http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=991).

who commit two serious sexual abuse offenses against a child.<sup>63</sup> Third, it allows for the prosecution of individuals who sexually exploit children abroad regardless of intent.<sup>64</sup>

While much has been accomplished in the United States, winning the battle against child sexual exploitation and abduction requires further action. For example, a more aggressive campaign needs to be mounted targeting and enlisting the financial sector's assistance with regards to the prevention of use of credit cards and other forms of electronic payments to purchase child pornography. Today, the families of children who are missing or have been sexually exploited still get very little attention, and the situation is particularly acute in regard to the siblings. Victim assistance programs targeting these specific groups are urgently needed. Recognizing the international scope of child sexual exploitation and abduction requires the United States to reach out across international borders and to work with other countries to share information, align legislation, exchange best practices, and provide ongoing international law-enforcement training.

## II. Europe

Europe has also been proactive in dealing with child sexual exploitation. The Cybercrime Convention is a unique international legal instrument that provides detailed definitions and a comprehensive list of computer-related child-pornography crimes. The Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography and the Framework Decision on Combating Trafficking in Human Beings provide the necessary framework to combat child sexual exploitation within the European Union; however, all Member States must make serious efforts to implement the provisions contained within these two Framework Decisions.

Following the horrific Dutroux case, in 1997 the European Parliament established the Daphne Initiative, which is aimed at bringing together NGOs from Member States to cooperate in, among other actions, research, training, networking, raising public awareness, and supporting victims of violence. In 2000, this initiative was extended under what is known as the Daphne Program, which received 20 million Euros to fund projects specifically dealing with trafficking, sexual exploitation, domestic violence and abuse, as well as violence in schools and violence towards minority groups and migrants. The Daphne Program encouraged NGOs and public authorities to actively cooperate, as well as exchange information and best practices. Thus, from its inception in 1997 until 2003, the Daphne Program funded a total of 303 projects. As a result of its successes, the Daphne Program, in the form of Daphne II, has been extended to run from 2004 to 2008, with an operating budget of 50 million Euros.<sup>65</sup>

Additionally, in 2002 the E.U. Council created a framework program for law-enforcement and judicial cooperation in criminal matters known as the AGIS. This particular program specifically promotes legal and law-enforcement cooperation between Member States, the exchange and dissemination of

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<sup>63</sup> 18 U.S.C. § 3559 (2005).

<sup>64</sup> See 18 U.S.C. § 2423.

<sup>65</sup> Additional information on the Daphne Program is available at [http://europa.eu.int/comm/justice\\_home/funding/daphne/funding\\_daphne\\_en.htm](http://europa.eu.int/comm/justice_home/funding/daphne/funding_daphne_en.htm).

information, the sharing of experience and best practices, and the improvement of training and technical assistance.<sup>66</sup>

Europol has also recently teamed up with the European Commission to provide its expertise and knowledge. It is currently training law-enforcement officers on how to combat child sexual abuse images by providing the necessary investigative expertise to dismantle sex offender networks. In 2001, Europol created the Analytical Work File (AWF) to support E.U. Member States in preventing and combating criminal networks responsible for the production, sale, or distribution of child pornography. The use of AWF has resulted in the identification of an important number of criminals and rescued many children from further sexual exploitation. Europol has also started a database, which includes DNA materials, on pedophile networks.<sup>67</sup>

Much has been achieved in Europe; however, participants also highlighted a number of shortcomings. First, efforts must be channeled to create a European missing children's database, along with concrete statistical information relating to missing and sexually exploited children, to determine the true scope of the problem and to allocate appropriate and effective measures to combat the problem. Second, governments of the individual E.U. Member States should provide more resources to train law-enforcement agencies in victim identification techniques. Third, European countries need to adopt a more uniform definition of "child" for the purposes of prosecuting child sexual exploitation cases. Fourth, penalties for sexual exploitation of children need to be increased. Fifth, ISPs must be encouraged, if not legally pressured, to report child sexual abuse images on their servers and to cooperate with investigating law-enforcement agencies. Sixth, E.U. Member States have to encourage transparent and effective cooperation, built on mutual respect, between governments and NGOs.

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<sup>66</sup> Additional information on AGIS is available at [http://ec.europa.eu/justice\\_home/funding/agis/wai/funding\\_agis\\_en.htm](http://ec.europa.eu/justice_home/funding/agis/wai/funding_agis_en.htm).

<sup>67</sup> Additional information on Europol's trafficking and child abuse is available at [http://www.europol.eu.int/index.asp?page=publ\\_childabuse](http://www.europol.eu.int/index.asp?page=publ_childabuse).

## 15-POINT ACTION PLAN

Participants at the U.S./European Summit on Missing and Exploited Children adopted a 15-point Action Plan to combat the growing problems of child abduction and child sexual exploitation. The Action Plan includes the following:

- (1) Promote the creation of new operational centres throughout Europe;
- (2) Eradicate the commercial viability of child pornography by 1 January 2008;
- (3) Raise awareness about the problems of child abduction and child sexual exploitation;
- (4) Implement an expanded database in the United States and Europe of known, convicted pedophiles and other sexual predators against children;
- (5) Develop new technology to track child traffickers;
- (6) Establish a three-digit phone number that can be used worldwide for missing child reports;
- (7) Create a system to distribute missing child photographs more quickly;
- (8) Create a common, criminal DNA databank in Europe;
- (9) Implement the U.S. AMBER Alert system throughout Europe;
- (10) Create uniformity between U.S. and European child protection legislation and conventions;
- (11) Implement joint training for U.S. and European law enforcement and other professional to ensure that there is the highest level of expertise and sophistication in working missing and exploited child cases;
- (12) Establish formal agreements of cooperation between law enforcement, NGOs, and other public agencies;
- (13) Establish a uniform definition of child exploitation to be used throughout the United States and Europe;
- (14) Develop expanded support programs for families of missing and sexually exploited children; and
- (15) Implement the provisions of the U.N. Convention on the Rights of the Child and similar international instruments to ensure that children everywhere are protected.

## CONCLUSION

The problem of missing and exploited children is clear and present. As stated by U.S. Ambassador Maura Harty, it transcends “race, ethnicity, class distinctions, religion, political differences, and certainly national boundaries.”

Both the United States and European countries have taken affirmative action to protect children. Yet, much more needs to be done. Legislation on both sides of the Atlantic needs to be aligned so as not to afford sex offenders and predators the legal loopholes they currently depend on to avoid prosecution. Countries that have not implemented the provisions contained within the available legal European instruments are urged to do so without any further delay. The principle of corporate social responsibility must be adopted by ISPs, corporations, and financial institutions alike. Private industry must be encouraged to partner with the global community to curb the demand for sexual exploitation and to provide innovative, concrete, preventative measures to combat the phenomenon. Governments, law-enforcement agencies, and NGOs must continue to share expertise, databases, and knowledge across transnational borders, without regard to individual recognition.

All children deserve a deliberate and unified effort aimed at protecting them from abduction and exploitation. International cooperation is critical and, as Mrs. Margarida Barroso pointed out, “more than ever, Americans and Europeans must stay close together in defense of the most vulnerable.” The convening of the inaugural U.S./European Summit on Missing and Exploited Children and the resulting 15-point Action Plan mark the beginning of a concerted undertaking to guard and defend those who are most vulnerable: our world’s children.



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