



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/78
23 December 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 13 of the provisional agenda

RIGHTS OF THE CHILD

**Report submitted by Mr. Juan Miguel Petit, Special Rapporteur on the
sale of children, child prostitution and child pornography**

Summary

This report is submitted in accordance with Commission on Human Rights resolution 2004/48.

The report focuses on child pornography on the Internet and is based on the information received from Governments, international organizations and non-governmental organizations in reply to a questionnaire sent by the Special Rapporteur. Information was received from 51 countries. The report illustrates over 70 experiences in the area of combating and preventing online child pornography.

Internet created unprecedented opportunities, together with the challenges and threats of its abusive and harmful use. Cyberspace hosts an alarming quantity of child pornographic material. Chat rooms are increasingly used by sexual abusers as a means for making contact with children as part of the “grooming” process. In this respect, a few countries recently adopted legislation on “Internet grooming or luring”.

The report examines the definition of child pornography in international instruments and national legislation and refers in particular to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Council of Europe Convention on Cybercrime, which are the two main international instruments in this area.

Many countries still do not have legislation on child pornography. This legal vacuum leaves a dangerous gap that exposes children to the risk of abuse, further increased by the impunity factor. The Special Rapporteur recommends the ratification of the Optional Protocol on the sale of children, child prostitution and child pornography and the adoption of its definition of child pornography. He further recommends: (a) to attach criminal consequences to the conduct of each participant in the chain of child pornography, from production to possession; (b) to introduce legislation creating the offence of “Internet grooming or luring”; (c) to introduce legislation on Internet Service Providers (ISPs) envisaging not only their obligation to remove or prevent accessibility to illegal material of which they have knowledge, but also establishing a minimum monitoring obligation to prevent online child pornography; (d) to consider the adoption of legislation on child erotica; and (e) to ensure that legislation on child pornography protects all children under the age of 18, regardless of the age of consent to sexual activity, which can be under 18. A child under 18 should not be considered as able to consent to engagement in pornography, prostitution or trafficking.

Many initiatives are under way to combat and prevent online child pornography. They range from legislative measures, the starting point to address the phenomenon with a human rights perspective, to the establishment of specialized units within law enforcement agencies, action plans, working groups, codes of conduct, hotlines, and awareness-raising campaigns. The

Special Rapporteur is concerned with the limited action taken so far to protect the victims of child pornography and calls for more efforts to identify the victims of abuse and provide them with assistance and compensation.

The private sector is an indispensable ally in this fight. Self-regulatory initiatives are to be encouraged. In particular, credit-card companies have a crucial role in stopping the business of online child pornography. The Special Rapporteur urges credit-card companies to make all possible efforts to avoid accepting payment for child pornography web sites and to find ways not to allow payments through “e-gold”, a payment method which hides credit-card information.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
I. WORKING METHODS AND ACTIVITIES	1 - 10	5
A. Working methods	1 - 5	5
B. Activities	6 - 10	5
II. CHILD PORNOGRAPHY ON THE INTERNET	11 - 115	6
A. Introduction	11 - 17	6
B. Child pornography on the Internet: What do we mean?	18 - 26	7
C. Definitions in international instruments	27 - 37	9
D. Other international instruments referring to child pornography on the Internet	38 - 42	11
E. National legislation	43 - 75	11
F. Law-enforcement agencies	76 - 84	16
G. Initiatives	85 - 115	17
III. CONCLUSIONS	116 - 121	22
IV. RECOMMENDATIONS	122 - 129	23

I. WORKING METHODS AND ACTIVITIES

A. Working methods

1. At its sixtieth session, in resolution 2004/48, the Commission on Human Rights requested the Special Rapporteur to submit a report to the Commission at its sixty-first session. The present report is submitted in accordance with that request.
2. This report focuses on child pornography on the Internet. The report is based on information submitted to the Special Rapporteur through a questionnaire sent to Governments, international organizations and non-governmental organizations (NGOs) on 30 July 2004.
3. The questionnaire requested information on existing legislation on child pornography on the Internet; the implementation of the legislation, including relevant information on jurisprudence and law-enforcement agencies; initiatives to prevent and combat child pornography on the Internet and other forms of sexual exploitation of children via Internet, such as sex tourism and trafficking; and initiatives in collaboration with the private sector, consumers' associations and civil society at large.
4. The Governments of the following countries replied to the questionnaire: Australia, Azerbaijan, Barbados, Brazil, Brunei, Canada, Colombia, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Denmark, Dominica, Dominican Republic, Egypt, Finland, Georgia, Greece, Haiti, Lithuania, Luxembourg, Mauritius, Mexico, Paraguay, Poland, Portugal, Qatar, Romania, Russian Federation, Serbia and Montenegro, Slovenia, Sweden, Switzerland, Togo, Turkey, Ukraine and Yemen. The European Commission submitted information on relevant legislation and initiatives at the European level. The United Nations Children's Fund (UNICEF) and NGOs submitted information on the following countries: Albania, Belgium, Cambodia, Canada, Costa Rica, Denmark, Finland, France, Germany, Iceland, Italy, Japan, Mexico, New Zealand, Norway, Pakistan, Romania, South Africa, Sweden, United Kingdom of Great Britain and Northern Ireland, and the United States of America.
5. The Special Rapporteur would like to warmly thank all those who responded. Only a selection of the wealth of experiences and initiatives on which information was received is outlined in this report.

B. Activities

6. During 2004 the Special Rapporteur carried out two country visits, to Paraguay and Romania (E/CN.4/2005/78/Add.1 and E/CN.4/2005/78/Add.2) respectively. For the first time, the Special Rapporteur compiled his communications to Governments on specific cases pertaining to his mandate and the replies of Governments in a separate report, presented as an addendum (E/CN.4/2005/78/Add.3).
7. In 2004, the Special Rapporteur requested invitations to visit some Asian countries. He would also like to visit countries in Eastern Europe and Central Asia. He wishes to undertake the next country visits in close consultation with relevant partners, and with UNICEF in particular.

8. The Special Rapporteur attended the regional follow-up meeting to the Second World Congress against Commercial Sexual Exploitation of Children in San José (Costa Rica) from 18 to 20 May 2004.

9. The Office of the High Commissioner for Human Rights presented the work of the Special Rapporteur at the International Conference against Child Trafficking organized by the NGO Terre des Hommes in Osnabrück, Germany, from 2 to 4 November 2004. On that occasion, several initiatives to combat child trafficking were brought to the attention of the Special Rapporteur. Following a joint declaration of the European Union of 1997,¹ its member States were invited to each appoint a national rapporteur on trafficking in human beings. National rapporteurs are to report to Governments on the scale, the prevention and combating of trafficking and the effectiveness of policies and measures concerning this phenomenon. Following this recommendation, in 2000 the Government of the Netherlands appointed a national rapporteur on trafficking in human beings. The interaction between the independent mechanisms that are being created at different levels, national, regional and international, can reinforce their monitoring role and relevance in combating such multidimensional phenomena as trafficking of human beings. In this context, the Special Rapporteur invites other Governments of the European Union to follow up the recommendation of the joint declaration of 1997 and to appoint national rapporteurs on trafficking in human beings.

10. The Special Rapporteur welcomes the establishment of the mandate of Special Rapporteur on trafficking in persons, especially in women and children, and congratulates Ms. Sigma Huda for her appointment. He is committed to collaborating closely with this new mandate on all occasions where both voices can be joined. This includes: (a) addressing joint communications to Governments on issues pertaining to both mandates; (b) coordination on the choice of countries to be visited, taking into account the convenience of undertaking joint missions; (c) consultation on the topics to be addressed in thematic reports; (d) joint statements; and (e) overall collaboration in the design of the strategies and activities of both mandates.

II. CHILD PORNOGRAPHY ON THE INTERNET

A. Introduction

11. The Internet has created an exciting new world of information and communication. Virtual highways where information circulates at full speed wrap the world in a cyber-matrix connecting computers, mobile phones and other technological devices in all corners of the planet.

12. While this technology offers unprecedented opportunities for children and adults to learn, participate and choose, it is also very open to abuse. Together with financial transactions, cross-border bookings and online tutoring of human rights education programmes for students with disabilities, the World Wide Web hosts an alarming number of abusive images of children. In 2001, 105,000 abusive images were posted in 30 newsgroups in 16 days. One Canadian citizen had 1 million abusive images on his computer. In 2002, 20 children appeared in abusive images in a small subset of newsgroups within a period of six weeks; 35,000 images were generated from the abuse of these children.²

13. In addition to “blog”, “browse”, “cookie” and many other fancy words of Internet slang, our vocabulary had also to include the expressions of Internet-related abuse of children. We had to learn that “grooming children” means online enticement of children for sexual acts. We are confronted with the problems posed by so-called child erotica, web sites with images of children posing half-dressed or naked with an emphasis on sexualizing the child either overtly or covertly. We are concerned with the growing use of “e-gold”, a virtual payment method of purchasing gold, which can then give credit for use on web sites, thereby hiding the original credit-card payments.

14. Child pornography on the Internet is a truly global problem and needs global responses from different actors, Governments, law enforcement agencies, the private sector, in particular Internet service providers (ISPs), software designers, credit-card companies, NGOs, including consumers’ organizations, the media, teachers and educators, children and their families.

15. The extent and seriousness of the problem are perceived unevenly across countries. The technological divide is a determinant of the different perceptions. In countries with high rates of Internet access, the dimensions of child pornography on the Internet are bigger. Countries with a limited use of this technology do not see the dangers of the abusive use of the Internet as an immediate problem. If, on the one hand, it is true that the scale of use goes together with that of abuse, on the other hand, countries that do not have an adequate legislation and appropriate accompanying measures to prevent and combat this problem, expose their children to the risks of abuse and exploitation. The Special Rapporteur encountered already several cases of this kind. He learned of cases of children who were victims of child pornography on the Internet and exploited by foreigners. The latter went to countries with inadequate or no legislation on child pornography to take advantage of this vacuum and abused children when sure of their impunity.

16. An indication of the different perception of the problem is also reflected in the replies to the request for information sent to all countries for the preparation of this report. Very limited information was received from Asia. The same was true for the African continent, with only two Governments and one NGO submitting information on their countries.³ Most information was received from European countries. The report reflects this geography in the illustration of experiences.

17. The purpose of this report is to raise awareness about the problem of child pornography on the Internet, take stock of the existing definitions, instruments and measures to address it, offer a basis for discussion and suggest a number of recommendations.

B. Child pornography on the Internet: What do we mean?

18. Child pornography is a violation of children. It involves sexual abuse and exploitation of children and is linked to child prostitution, child sex tourism and the trafficking of children for sexual exploitation.

19. There are many kinds of child pornography materials, but essentially they involve depicting a child in a manner that is intended to aid sexual arousal and gratification. Hardcore materials depict a child engaged in real or simulated explicit sexual activities or lewdly depict parts of a child’s body.

20. Soft-core pornography, the so-called “child erotica”, consists of images of children posing half-dressed or naked with an emphasis on sexualizing the child. Child erotica web sites usually advertise legal images of children on the opening page with the promise of more “hardcore” child pornographic material available through payment by credit card.

21. Child erotica challenges the general debate about censorship on the Internet. This is likely to be the reason why international definitions of illegal child pornography, including the comprehensive provision of the Council of Europe Convention on Cybercrime, do not include this kind of material. This legal vacuum means the trading of child erotica remains a legal activity in most countries.⁴

22. Child pornography includes not only the use of real children but also artificially created imagery. This virtual material included digitally created images, and morphed or blended images of adults and children. Although this kind of pornography does not involve the direct abuse of a child, its power to “normalize” images of child sexual abuse and incite sexual exploitation of children should not be underestimated and must be adequately addressed.

23. Child pornography is also linked to sex tourism. Many of the sex tourism cases uncovered include seizures of child pornography. Digital cameras and video camcorders have made life easier for abusers who wish to make a record of their criminal behaviour for private entertainment or commercial gain.

24. Mobile phones with access to Internet and to digital camera or video functions can be easily used to take and send abusive pictures across borders. Internet-enabled mobile phones can also be used for online dating services.

25. One of the most alarming new developments in the area of online child pornography is the growth of what appears to be organized crime involvement. Commercial web sites selling child pornography videos exist, many of which appear to have their origins in Eastern Europe. The potential for links with child trafficking and child prostitution are obvious further areas for concern.

26. In recent years Internet chat rooms have been used by sexual abusers as a means for making contact with children as part of the grooming process. Potential and actual perpetrators exploit the anonymity of the Internet chat culture as a method of stealthily manipulating children into believing they are chatting with a child of similar age. There are cases coming before the courts where men have been arrested after arranging to meet children they have befriended in Internet chat rooms or via message services. Usually the abusers pose as young men or boys as a means of gaining the child’s confidence by lying about their age and sharing secrets that encourage trust. Eventually, they suggest a meeting. Invariably the child has kept this cyber-friendship a secret from parents and friends. The anonymity of the Internet allows the child to construct a fantasy friendship and play it out in isolated security, until the friend stops being just an e-mail address and becomes a person he or she is going to meet.⁵

C. Definitions in international instruments

27. Article 2 (c) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography defines child pornography as “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”.

28. A more comprehensive definition addressing computer-generated images is contained in the 2001 Council of Europe Convention on Cybercrime: “‘child pornography’ shall include pornographic material that visually depicts: (a) a minor engaged in sexually explicit conduct; (b) a person appearing to be a minor engaged in sexually explicit conduct; (c) realistic images representing a minor engaged in sexually explicit conduct” (art. 9).

29. The Convention further states: “Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct: (a) producing child pornography for the purpose of its distribution through a computer system; (b) offering or making available child pornography through a computer system; (c) distributing or transmitting child pornography through a computer system; (d) procuring child pornography through a computer system for oneself or for another; (e) possessing child pornography in a computer system or on a computer-data storage medium” (art. 9).

30. The explanatory report on the Convention on Cybercrime elucidates the elements of this definition:

- “Visual depiction” includes data stored on computer diskette or on other electronic means of storage, which are capable of conversion into a visual image;
- “Sexually explicit conduct” covers at least real or simulated: (a) sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, between minors, or between an adult and a minor, of the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse in a sexual context; or (e) lascivious exhibition of the genitals or the pubic area of a minor. It is not relevant whether the conduct depicted is real or simulated.

31. The three types of material defined for the purposes of committing the offences cover depictions of sexual abuse of a real child, pornographic images which depict a person appearing to be a minor engaged in sexually explicit conduct, and finally images, which, although “realistic”, do not in fact involve a real child engaged in sexually explicit conduct. This latter scenario includes pictures which are altered, such as morphed images of natural persons, or even generated entirely by the computer.

32. In the three cases above the protected legal interests are slightly different. The first hypothesis focuses more directly on the protection against child abuse. The second and third cases aim at providing protection against behaviour that, while not necessarily creating harm to the “child” depicted in the material, as there might not be a real child, might be used to encourage or seduce children into participating in such acts, and hence form part of a subculture favouring child abuse.

33. The Convention criminalizes various aspects of the electronic production, possession and distribution of child pornography:

- “Offering” is intended to cover soliciting others to obtain child pornography. It implies that the person offering the material can actually provide it;
- “Making available” is intended to cover the placing of child pornography online for the use of others, e.g. by means of creating child pornography sites. It also covers the creation or compilation of hyperlinks to child pornography sites in order to facilitate access to child pornography;
- “Distribution” is the active dissemination of the material. Sending child pornography through a computer system to another person would be addressed by the offence of “transmitting” child pornography;
- The term “procuring for oneself or for another” means actively obtaining child pornography, e.g. by downloading it.

34. The possession of child pornography in a computer system or on a data carrier, such as a diskette or CD-ROM, is criminalized. The possession of child pornography creates demand for such material. An effective way to curtail the production of child pornography is to attach criminal consequences to the conduct of each participant in the chain from production to possession.

35. The series of illicit acts listed in the Convention and outlined above are to be criminalized if committed “intentionally”. According to the Convention, a person is not liable unless he has an intent to offer, make available, distribute, transmit, produce or possess child pornography. For example, liability may be imposed if there is knowledge and control over the information which is transmitted or stored. It is not sufficient, for example, that a service provider served as a conduit for, or hosted a web site or newsroom containing such material, without the required intent under domestic law in the particular case. Moreover, a service provider is not required to monitor conduct to avoid criminal liability.⁶

36. The comprehensive definition of child pornography provided by the Convention and the detailed list of illicit acts related to this crime makes this provision a valuable international instrument worthy of emulation. The Convention is the first international treaty dealing with criminal offences committed by means of computer networks.

37. The European Union’s Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography defines child pornography as “pornographic material that visually depicts or represents: (i) a real child involved or engaged in sexually explicit conduct, including lascivious exhibition of the genitals or the pubic area of a child; or (ii) a real person appearing to be a child involved or engaged in the conduct mentioned in (i); or (iii) realistic images of a non-existent child involved or engaged in the conduct mentioned in (i)”.

D. Other international instruments referring to child pornography on the Internet

38. Article 34 of the Convention on the Rights of the Child requires States parties to take all appropriate measures to prevent the exploitative use of children in pornographic performances and materials.
39. ILO Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour defines the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances one of the worst forms of child labour to be prohibited and eliminated as a matter of urgency (arts. 3.b and 1).
40. The European Union's Council resolution on the contribution of civil society in finding missing or sexually exploited children (2001/C 283/01) encourages cooperation between the competent authorities and civil society, in particular civil society organizations, in finding missing or sexually exploited children. The resolution covers a wide range of situations, including child trafficking, prostitution and pornography as well as paedophile networks on the Internet.
41. The Yokohama Global Commitment 2001, which was adopted by the Second World Congress against Commercial Sexual Exploitation of Children, called on States to "take adequate measures to address negative aspects of new technologies, in particular child pornography on the Internet, while recognizing the potential of new technologies for the protection of children from commercial sexual exploitation, through dissemination and exchange of information and networking among partners".
42. The 2002 outcome document of the General Assembly's twenty-seventh special session, on children, entitled "A world fit for children", called on States to "raise awareness of the illegality and harmful consequences of sexual exploitation and abuse, including through the Internet" and requested them to "take necessary measures, including through enhanced cooperation between Governments, intergovernmental organizations, the private sector and non-governmental organizations to combat the criminal use of information technologies, including the Internet, for the purposes of the sale of children, for child prostitution, child pornography, child sex tourism, paedophilia and other forms of violence and abuse against children and adolescents".⁷

E. National legislation

1. Scope and definitions

43. The panorama of legislation on child pornography on the Internet at the national level differs quite significantly from country to country. Some countries do not have specific legislation on Internet child pornography but can still prosecute it using general legislation on child pornography or child sexual exploitation or abuse, as is the case in **Haiti, Portugal** and **Togo**.
44. Other countries, despite having ratified the Optional Protocol on the sale of children, child prostitution and child pornography, do not have a legal definition of child pornography.

45. In **New Zealand**, legislation does not specifically define child pornography. However material that promotes or supports the sexual exploitation of children and young persons is considered “objectionable” and is illegal. Such material need not involve the sexual exploitation of real children in order to be objectionable. Cartoons, fictional text, “morphed” images and pictures of adults dressed to appear as young persons can be found objectionable. The jurisprudence has clarified that photographs of nude children in sexual poses can be considered objectionable (child erotica), even where there is no sexual activity.

46. Other countries still have not adopted the legal framework to transpose into national legislation the provisions of the Protocol. This is the case of **Paraguay**, which ratified the Protocol and has a draft law that would transpose the Protocol’s provisions into national law.

47. The penal code of **Norway** defines pornography as sexual depictions of an offensive nature or that in other ways have a degrading effect on people, or are brutalizing, including sexual depictions during which use is made of children, corpses, animals, violence and compulsion. It then defines child pornography as sexual depictions in moving or still pictures of persons under the age of 18 or those who are depicted as under the age of 18.

48. In the **Dominican Republic**, child pornography is understood as all representation, through any means, of children, boys and girls, and adolescents engaged in explicit sexual activities, real or simulated, or any depiction of the genitals of children and adolescents for primarily sexual purposes.⁸

49. In terms of means of representation of child pornography, some laws are broader in scope. For example, in **Barbados** legislation refers to “photographs”, while in **Belgium** representation can be through “media and visual objects of any kind”.

50. **South Africa** has a comprehensive definition of child pornography that addresses explicitly its manifestations on the Internet. The Films and Publications Act No. 34 of 1999 and 2004 states: “Child pornography includes any image, however created, or any description of a person, real or simulated, who is, or who is depicted or described as being, under the age of 18 years: (i) engaged in sexual conduct; (ii) participating in, or assisting another person to participate in, sexual conduct; or (iii) showing or describing the body, or parts of the body, if such a person in a manner or in circumstances which, within context, amounts to sexual exploitation, or in such a manner that it is capable of being used for the purpose of sexual exploitation.” The Act defines a “publication” as including “computer software which is not a film” as well as “any message or communication, including a visual presentation, placed on a distributed network including, but not confined to, the Internet”. “Visual presentation” is intended as “a drawing, picture, illustration, painting, photograph or image or any combination thereof, produced through or by means of computer software on screen or a computer printout”.

2. Illegal activities

51. In terms of the acts considered illicit in relation to child pornography, article 3, paragraph 1 (c), of the Optional Protocol on the sale of children, child prostitution and child pornography lists “producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography”.

52. National laws refer to a large extent to the same list of illicit acts. In some countries, though, this list is more comprehensive, in others less so. The same goes for jurisprudence, which is progressively defining what is understood with each illicit act.

53. For instance, in **Denmark**, the penal code defines an illicit act the “recording, selling or disseminating” in any other ways, “possessing or obtaining access”. In **Italy**, the list of illicit acts related to child pornography includes production, trade, distribution, spreading, advertising, knowingly passing, procurement and possession. **Norway** has a more comprehensive catalogue of punishable conducts: (a) publication, selling, or any other way of dissemination; (b) importing; (c) production, possession and passing; (d) holding public lectures or organization of public performances or exhibitions with pornographic content; (e) enticement of any person under the age of 18 to allow him or herself to be depicted as part of a commercial production of moving or still pictures with a sexual content of any person under the age of 18, or production itself of such material.

54. In **Uruguay**, Law 17.815 on sexual violence against children, adolescents and persons with disabilities, adopted in August 2004, foresees strong penalties for the production, trade and dissemination of pornographic material with images or other forms of representation of children or persons with disabilities. The law punishes as well the remuneration or the promise of remuneration of children to engage them in sexual or erotic activities.

55. In **Sweden**, the possession of child pornography is forbidden but it is not forbidden to “watch”. Possession of child pornography is only illegal if movies or pictures with child pornography are downloaded and saved in the hard drive, floppy disk or CD-ROM. Watching child pornography on the Internet by saving the link under “favourites” or under the so-called “cyber hard drives” is not considered illegal according to Swedish law. This means that subscribing to web sites containing tens of thousands of child pornography files and having unlimited access to child pornography 24 hours a day, 7 days a week, without downloading anything, is legal.

56. Conversely, the jurisprudence of the **United Kingdom of Great Britain and Northern Ireland** established that simply viewing Internet child pornography means committing an offence. In *R. v. Jayson*⁹ the Court of Appeal ruled that “the act of voluntarily downloading an indecent image from a web page on to a computer screen is an act of making a photograph or pseudo-photograph”. The jurisprudence of the **United States of America** goes in the same direction. In *United States v. Tucker* (2001), the Court for the District of Utah decided that the defendant, who viewed child pornography on his computer, “possessed” the material, even though images were obtained from an Internet web site that automatically saved images in his cache file and he did not download them, because he exercised control over the images, in that he could copy, enlarge, print or delete them.

57. The **Lithuanian** Criminal Code provides for criminal responsibility for any person who produces or acquires pornographic material, purchases, keeps, displays, advertises or distributes objects of a pornographic nature with the image of a child or a person appearing to be a child.

58. In **New Zealand**, it is illegal to make, supply, give, offer, advertise, display, exhibit or possess child pornography. Case law is progressively clarifying what constitutes possession.

For example, electronic evidence of former possession of objectionable material is sufficient to obtain a conviction. A person can be convicted for the offence of possession if he or she knows to possess material and exercises potential control of the material.

3. “Grooming”

59. Online enticement of children for sexual acts, “Internet grooming or luring” is becoming an alarming phenomenon. Research undertaken in **Poland** illustrates the worrying dimensions of the problem. According to the research, about 92 per cent of Polish children using the Internet communicate within the online services; 75 per cent of them received proposals to meet outside the Net and 25 per cent met a stranger, accepting this proposal. Fifty-six per cent of the children have been induced to unwanted sexual conversations, accompanied by sending pornographic pictures (14 per cent), requests to send pictures (66 per cent) and meeting proposals (69 per cent).¹⁰

60. Given the increase in the number of sexual offenders who try to get in contact with children via chat rooms and then try to meet them, relatively few countries have introduced legislation on grooming.

61. The **Australian** Crime Legislation Amendment (Telecommunications Offences and Other Offences, Act 2004) includes “grooming” as a new offence. It is an offence to use a carriage service to procure or “groom” a person who is under 16 years of age, for the purpose of engaging in sexual activity with that person or so that a third person can engage in sexual activity with that person.

62. In **Canada**, it is illegal to communicate with a child over the Internet for the purpose of committing a sexual offence against that child (defined as “Internet luring”).

63. The penal code of **Germany** prohibits influencing children with publications in order to make them carry out sexual actions. According to the legislation, the preparation of potential sexual abuse can also be prosecuted. The publications used to influence children do not necessarily have to have a sexual meaning.

4. The age of consent to sexual activity vis-à-vis the age used in child pornography legislation

64. Each country has its own definition of what the age of consent to sexual activity is. In many cases, it is different from the age used in child pornography legislation, which in most cases is 18 years. This difference can create problems in the application of legislation on child pornography.

65. In most countries, legislation on child pornography protects children under the age of 18, regardless of the age of consent to sexual activity, which is normally lower. This means that production and possession of child pornography, as well as the other illegal activities along the production-consumption chain, are crimes, even if the children involved have reached the age of consent.

66. The **European Union**’s Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography

provides that a member State may exclude from criminal liability conduct relating to child pornography, in the case of production and possession of images of children having reached the age of sexual consent, if the images are produced and possessed with their consent and solely for their own private use. Even where the existence of consent has been established, it shall not be considered valid if, for example superior age, maturity, position, status, experience or the victim's dependency on the perpetrator has been abused in achieving the consent.

67. In **Poland** the age used in child pornography legislation is 18. However, this concerns only "professional" pornographic material produced to be publicly distributed. Producing and possessing pornographic material with the participation of children between 15 and 18 is legal if the aim is not public distribution.

68. In **Sweden**, the age of consent is 15. In the provisions on child pornography of the Swedish penal code, a child is defined as "a person whose pubertal development is not complete or, if it is apparent from the picture and its attendant circumstances, who is less than 18 years of age". A case of December 2002 proves that this provision is problematic. A 42-year-old man made pornographic movies with 16 to 17-year-old girls, and was aware of the girls' age. The district court in Stockholm competent for the case identified the girls, who testified in court about their age. Despite this, the court decided to acquit the man on the charges of child pornography crimes. The court based its verdict on the way the girls looked in the movies, and since the court could not definitely tell that the girls were under the age of 18, the man was acquitted.¹¹ The district court's decision was appealed by the prosecutor to the court of criminal appeal, which did not change the verdict of the district court. The decision has been appealed to the Supreme Court, which has still not settled on a date for trial.

69. A similar situation occurred in **Portugal**, where the existing legislation on child pornography covers children below the age of 14 years only, which is also the age of consent to sexual activity. A judgement passed in 2003 by the Lisbon Court of Appeal decided that "not having determined, by technical scientific expertise, whether the minors whose photos the defendant has diffused on a web site he created were below the age of 14, the acquittal of the defendant shall be maintained, in accordance with the principle *in dubio pro red*". New amendments to the Criminal Code currently under discussion are intended to cover children under 18 in provisions related to child pornography.

70. In **Switzerland**, the age of consent is 16 and the legislation on child pornography protects children under 18. This means that the legislation prosecutes offences related to child pornography perpetrated against children under 18. Nevertheless, according to Swiss law, a child above 16 can participate in the production of pornographic material, provided that he or she gave an informed and free consent. In this case, it would mean participating in acts of a sexual nature agreed upon by persons who are legally adults as regards sexual activity. In other words, according to this interpretation in cases of participation of children between 16 and 18 in pornographic material, their valid consent determines whether the related activities are illegal or not.

71. The Special Rapporteur is of the view that legislation on child pornography should protect all children under 18, regardless of the age of consent to sexual activity, which may be under 18. A child, even if he or she reached the age of consent to sexual activity, cannot be considered as able to consent to engagement in pornography, prostitution or trafficking.

5. Internet service providers (ISPs)

72. Internet service providers (ISPs) can play a vital role in fighting against child pornography. Many argue that ISPs have a moral responsibility to prevent abusive images on the Internet. Many ISPs have done a lot to educate children using their services (e.g. by producing online guidelines and filtering spam). However, self-regulation of the Internet does not seem to be enough to prevent Internet-related crimes against children. Some countries started to adopt legislation on the liability of ISPs' activities.

73. Some countries do not have specific legislation for ISPs in relation to child pornography on the Internet, as in the case of **Denmark** and **Sweden**. In some other countries that also do not have specific legislation, the obligations foreseen by laws regulating the activities of ISPs can be instrumental in fighting child pornography on the Internet. In **Italy**, for example, ISPs have the obligation to retain traffic data for 24 hours. This is important to enable law-enforcement agencies to prosecute offences committed in using the Internet.

74. In **Iceland**, a service provider which hosts illegal material has no responsibility for the material on the condition that he or she removes or prevents access to the material immediately after receiving knowledge about material including child pornography. Several other countries have similar legislation, such as **Germany** and **South Africa**.

75. Similarly, in **France**, the liability of ISPs can be invoked when it is proven that they had effective knowledge of the illegal character of the information they hosted. Nevertheless, the French legislator went further in determining the obligations of ISPs vis-à-vis child pornography on the Internet. ISPs have a minimum monitoring obligation to prevent child pornography on the Internet. They also have the obligation to display easily accessible information for Internet users on how to report cases of child pornography they might encounter. In addition, ISPs have to promptly inform the competent public authorities on activities related to child pornography reported to them. In other words, they have the obligation to facilitate the detection of child pornography offences.

F. Law-enforcement agencies

76. Law-enforcement agencies face a major challenge in dealing with the volume of child abuse connected with the Internet. Many countries have recently established specialized units within the police to investigate cases of child pornography on the Internet.

77. In **Mexico**, the first unit of cyber-police (*policía cibernética*) was established in 2002. It is composed of 168 specialists whose mission is to identify and monitor illegal activities on the Internet, including child pornography. The cyber-police has a hotline and a web site to receive reports of cases of child pornography and other illegal activities on the Internet. The cyber-police's web site also provides information and recommendations to prevent child pornography and other forms of child exploitation on the Internet. So far, the cyber-police have identified 397 web sites with child pornography, of which 197 were created in Mexico.

78. Similarly, in **Croatia** the section for cyber-crime and the protection of intellectual property of the Ministry of the Interior, established in 2002, deals with child pornography on the Internet. It has established a fruitful collaboration with ISPs in cross-checking sites suspected of possessing or distributing child pornography. The cyber-crime unit within the **Lithuanian** Criminal Police Bureau functions in the same way and has a hotline for the reporting of cases.

79. In **Luxembourg**, the New Technology Department of the Judicial Police has a small IT laboratory to give technical support to the investigations.

80. In **Belgium**, two specialized police units closely collaborate in fighting child pornography: the trafficking in human beings unit and the federal computer crime unit, which also manages a hotline as a sort of clearinghouse for all reports on child pornography.

81. A first assessment of the investigation activities of the national coordination service on the fight against criminal activities on the Internet within the **Swiss** Federal Police shows that about a fifth of its reports on pornography involves children.

82. In the **United States of America**, the Federal Bureau of Investigation (FBI) launched the Innocent Images National Initiative: (a) to identify, investigate and prosecute sexual offenders who use the Internet and other online services to sexually exploit children; and (b) to identify and protect child victims. FBI agents go online undercover, utilizing fictitious screen names and engaging in real-time chat or e-mail conversations to obtain evidence of criminal activity. The Department of Justice's Office of Juvenile Justice and Delinquency Prevention created the Internet Crimes Against Children Task Force to help State and local law enforcement agencies develop an effective response to cyber-enticement and child pornography.

83. The **Norwegian** National Criminal Police is considered among the leading law enforcement agencies in the world when it comes to investigation, intelligence and technological equipment to combat child pornography and abuse on the Internet. In recent years, the criminal police focused its attention and gained some experience in victim identification, one of the weak areas in dealing with child pornography. Despite the leading efforts of the Norwegian police in victim identification, the general trend is that cases take several years before they reach the courts. Penalties have so far been mostly fines, with 10 months as the longest penalty imposed by the Supreme Court for crimes related to abusive images of children. Another problem is the limited understanding within the judicial system of the multitude of electronic distribution methods and the extent of digital exchange of information about child pornography that takes place in cyberspace.

84. The difficulties encountered by the Norwegian criminal police, considered one of the most advanced law enforcement agencies in this area, gives an alarming indication of the overall inadequacy of the responses in place vis-à-vis the magnitude of the problem.

G. Initiatives

85. The Special Rapporteur received a great deal of information on initiatives to combat child pornography on the Internet. Those quoted in the report are intended to be a representative sample to illustrate the different range of actions that are being taken.

1. Policy frameworks and institutional settings

86. Some countries frame their initiatives to prevent and fight child pornography on the Internet in policy instruments. In order to be effective, policy frameworks need to be adopted and implemented through a participatory process and be adequately resourced. The issue can be tackled in specific policy instruments entirely devoted to child pornography or through some more comprehensive frameworks, such as action plans on children's rights, human trafficking or child sexual exploitation, which can have components on child pornography. Ad hoc working groups, task forces, inter-ministerial committees and other types of institutions are being created to address the problem of Internet-related crimes.

87. A participatory process in view of the adoption of an action plan against paedophilia and child pornography on the Internet is ongoing in **Brazil**. It involves the Government, international organizations, civil society and the private sector. A validation national workshop at the beginning of 2005 will conclude the negotiation process on the drafting phase. The draft plan mirrors the axes of action of the National Plan to Fight Sexual Violence against Children and Adolescents:¹² diagnosis; mobilization and coordination; defence and accountability; assistance; prevention; and child participation.

88. Research on child protection on the Internet in **Mauritius**, carried out at the request of the Ministry of Women's Rights and Child Development and Family Welfare, will serve as the basis to design an Internet safety strategy for the country.

89. In **Turkey**, the National Action Plan on the Use of the Internet (2005-2015) focuses mainly on the adoption of adequate legislation in compliance with international instruments. An inter-institutional working group has been established to suggest measures to be taken against the dangers of the Internet. The working group is composed of the Ministries of Education, Interior and Justice, the General Directorate of Social Services and Child Protection Institute, ISPs and universities.

90. In May 2004, the Government of **Canada** announced the National Strategy to Protect Children from Sexual Exploitation on the Internet. Under the strategy, the Government dedicated 43 million Canadian dollars over five years to ensure a comprehensive, coordinated approach to protect children on the Internet, and to pursue abusers. The National Strategy has three main objectives: enhancing enforcement capacity; providing for public reporting and education to prevent victimization; and developing partnerships with the e-learning industry, the private sector and other levels of government to foster effective public awareness, education and crime prevention strategies.

91. The yearly action plan against child sexual exploitation of the **Dominican Republic** devotes part of its activities to fight Internet-related crimes against children.

92. In October 2002, the American NGO National Centre for Missing and Exploited Children held an international forum on combating child pornography. The objective of the forum was to reach consensus on a worldwide plan of action on combating child pornography. The outcome document of the forum, the so-called "Dublin Plan", is a sort of policy agenda to address the phenomenon in a comprehensive and strategic way.

93. Established in 2002 in **Italy**, CICLOPE (Committee for Coordination and the Fight against Paedophilia) is an inter-ministerial committee against paedophilia online with the participation of 11 ministries under the coordination of the Ministry of Equal Opportunities. Another example of institutional setting is the inter-ministerial committee on Internet and Minors under the Ministry for Communications. Established in 2004, it monitors the implementation of the code of conduct “Internet@Minors” co-adopted in November 2003 by the Government and the three major associations of ISPs.

2. Codes of conduct

94. Self-regulation initiatives are more and more common. Codes of conduct define the limits of what is considered ethical and set standards of quality that can be instrumental to improve the image of companies with positive commercial returns. In that sense, codes of conduct are not only self-restrictions that the private sector imposes but they are also good for business.

95. The Voluntary Self-Control for Multimedia Service Providers mechanism in **Germany** has developed a code of conduct. Its members oblige themselves to monitor the application of the legislation on the Internet and, when possible, to report sites with illegal contents and identify their clients. Misconduct of members might lead to sanctions and, in the worst case, to exclusion. The establishment of report sites and hotlines will activate the “notice and take down procedure”. Once the providers have been alerted of web sites with illegal contents on the Internet, they are expected to delete them.

96. The Japan Committee for UNICEF plans to launch the Code of Conduct to Protect Children from Sexual Exploitation in Travel and Tourism, involving major Japanese tourism agencies, in 2005.

3. Measures to protect children

97. Several initiatives are being implemented to protect children from Internet-related crimes and abuses. Most of them focus on the protection of children when using the Internet. From awareness-raising campaigns to hotlines, a wide range of actions have been undertaken to equip children and their families with the skills and tools against the risks of abuse or to report web sites with abusive contents.

98. The project InternetAction was carried out in 17 schools of Sweden for pupils between the ages of 10 and 12. The project produced a booklet, a poster, a screen-saver and a mouse pad with the following Net Smart Rules printed on them: (a) never tell anyone you meet on the Internet your home address, your telephone number or your school’s name, unless your parent or carer specifically gives you permission; (b) never send anyone your picture, credit card or bank details, or anything else, without first checking with your parent or carer; (c) never give your password to anyone, not even your best friend; (d) never arrange to meet anyone in person without first clearing it with your parent or carer, and get them to come along to the first meeting, which should always be in a public place; (e) never hang around in a chat room or in a conference if someone says or writes something, which makes you feel uncomfortable or worried, and always report it to your parent or carer; (f) never respond to nasty, suggestive or rude e-mails or postings in usenet groups; (g) always tell your parent or carer if you see bad

language or distasteful pictures while you are online; (h) always be yourself and do not pretend to be anyone or anything you are not; (i) always remember that, if someone makes you an offer which seems too good to be true, it probably is.

99. In **New Zealand**, the Internet Safety Group, comprising representatives of the police, Internet companies, NGOs, and schools, developed an Internet Safety Kit to be used in schools.

100. The NGO Internet Child Safety Foundation in **Mauritius** organizes talks in schools and has produced leaflets, bookmarks, postcards and T-shirts on Internet safety.

101. In **Slovenia**, the police issued a booklet for children, their families and teachers on how to use safely the Internet. A similar initiative was undertaken by the Ministry of Education, Youth and Sport in the **Czech Republic**. The private sector undertakes this kind of initiative too. The Swisscom Group published the SchoolNetGuide on the safe use of the Internet. It was distributed in **Swiss** schools.

102. Several awareness-raising campaigns have been launched in recent years. In **Poland**, the campaign “Child in the Web” involved 8 national and local TV stations, 19 radio stations, 33 newspapers and the 4 biggest Polish Internet portals. School materials were prepared and used by students themselves to train other students on the safe use of the Internet. This is an interesting experience of peer education and child participation.

103. In **Belgium**, the “Surf Safe” campaign was aimed at providing children between 10 and 13 with safety tips for the Internet. As a result of the campaign, the organization responsible for it, the NGO Child Focus, received 441 reports on child pornographic material during the year of implementation of the campaign.

104. The campaign “Surfing without risks” organized in **Costa Rica** issued mouse pads with tips for children on the safe use of the Internet, leaflets for teachers, educators, children’s families and cyber-cafe employees. Thematic workshops were organized in the framework of the campaign.

105. In **Uruguay**, the researcher Fernando Da Rosa, in the framework of research undertaken for the International Catholic Child Bureau (BICE) and the University of Uruguay, proposed launching a campaign to urge credit-card companies not to accept payments originating from child pornography web sites. This would take away almost all the profit that can be obtained through these sites and would strongly discourage those who create these sites to make money. This proposal was submitted to the Latin American Parliament (Parlatino) by the vice-president of the commission on equality and gender, Ms. Daisy Tourné, and by the vice-president of the Parlatino, Mr. Reynaldo Gargano, and approved in December 2004.

106. The Special Rapporteur supports this initiative and calls on Governments and NGOs to strongly request the collaboration of credit-card companies in fighting this global problem. The Special Rapporteur is committed to making all efforts to further disseminate this recommendation and will make contact with credit-card companies in this regard.

107. The challenge for law-enforcement and child-protection agencies is how to trace and identify the children abused for the production of pornographic material. Victims are entitled to

assistance and compensation. They have to be supported to recover from the double trauma of having being abused and having knowledge that images of their abuse can be in circulation in cyberspace forever. It is a grave concern that, to date, very few children abused for the production and distribution of child pornography have been identified and traced. The Special Rapporteur received information on only one project focusing on the protection of victims.

108. The Child Victim Identification Project implemented by the American NGO National Centre for Missing and Exploited Children identifies unknown child victims featured in pornographic images by using “image analysis”, a process documenting “clues” within the images that may reveal the location where the crime was committed. Once the possible location is identified, the competent law enforcement agency is contacted to carry out a search. The project also developed an evidence guide containing text description, identifiers, and a list of partial filenames for child pornography series featuring identified victims.

4. Coordination

109. Coordination between the several initiatives under way to fight child pornography and collaboration between the different actors involved at the national and international levels are essential elements to ensure the effectiveness of interventions.

110. The Safer Internet Programme is an initiative of the European Commission to fund activities to fight and prevent illegal and harmful content, as part of a coherent approach by the **European Union**. The programme as originally adopted ran for four years, 1999-2002. The European Parliament and Council extended it for a further two years, 2003-2004. The programme has four main actions: (a) setting up a European network of hotlines for reporting illegal content; (b) encouraging self-regulation; (c) developing content rating and filtering, benchmarking filtering software and services; and (d) raising awareness of safer use of the Internet.¹³

111. Several initiatives mentioned in this report are funded by the Safer Internet Programme. A very significant one is carried out by INHOPE, the Association of Internet Hotline Providers. INHOPE facilitates cooperation between Internet Hotline providers. Its mission is to eliminate child pornography from the Internet and protect young people from harmful and illegal uses of the Internet. The key functions of the association are to exchange expertise, support new national hotlines, and exchange reports on illegal contents. Whereas a single hotline can be successful at tackling the problem on a national level, its influence is limited when content is hosted in a foreign country or the perpetrator is located abroad. At present, INHOPE coordinates the work of 20 national hotlines in 18 countries.¹⁴

112. Hotlines are reporting mechanisms that allow members of the public to report illegal content. The hotlines then deal with the reports by passing them on to the appropriate body such as ISPs, the police or hotlines in other countries, thus helping to reduce the flow of illegal content. In **Belgium**, for instance, the NGO Child Focus set up the hotline Child Focus NetaAlert to promote a safe use of the Internet and to report cases of abusive contents. In 2002, the hotline received 2,274 reports of illegal and harmful material contained in 2,378 web sites. The police qualified 39.5 per cent of these web sites as containing child pornographic material. In 2003, the hotline received 2,262 reports on illegal contents in 3,447 web sites, of which 37 per cent was considered as child pornography by the police.

113. Another initiative supported by the Safer Internet Programme is the cross-European project SAFT (Safety, Awareness, Facts and Tools) aimed at promoting safe use of the Internet among children and young people. The SAFT consortium comprises seven partners in five countries (**Denmark, Iceland, Ireland, Norway and Sweden**).¹⁵

114. The Safer Internet Programme also supports the Safer Internet Day, an initiative of visibility and awareness-raising. On 6 February 2004, it was simultaneously celebrated for the first time in 11 countries.¹⁶ In some of the participating countries, the day culminated with the prize ceremony of the best poster designed by children to make people more aware about Internet safety.

115. The Virtual Global Taskforce is a partnership between international law enforcement agencies, which aims to make the Internet a safer place for children. Launched in December 2003, the task force includes law-enforcement agencies of **Australia, Canada, United Kingdom**, and the **United States**, as well as Interpol.¹⁷

III. CONCLUSIONS

116. **Information technologies offer unprecedented opportunities to communicate, learn and participate. The Web is a space of nearly unlimited freedom where real and virtual blur together and cybernauts hide their identities behind smiling emoticons. This no man's land is vulnerable to abusive and harmful use and is proving to be permeated by an alarming proliferation of child pornographic material.**

117. **Online child pornography is a recent problem, as is the response. Many countries are not addressing the issue yet, while others are at their very first steps. They are at the stage of equipping themselves with the normative, institutional and policy instruments to tackle the issue.**

118. **International instruments addressing child pornography and its manifestations on the Internet exist. The Optional Protocol on the sale of children, child prostitution and child pornography provides a definition of child pornography. The Convention on Cybercrime is the first international instrument on criminal offences that are committed through a computer system.**

119. **Once the Committee on the Rights of the Child starts examining reports on the implementation of the Protocol, it will contribute to developing a common understanding of definitions and their implications. This will help to harmonize the existing inconsistencies in national legislations, where there are cases of activities considered illegal in some countries and legal in others (see paragraphs 52-53 above).**

120. **Despite the valuable work carried out by hotlines in reporting cases of online child pornography and the intense work of law-enforcement agencies, overall the jurisprudence on child pornography on the Internet is rather limited. There are few convictions and they often apply the minimal penalties. Where it exists, jurisprudence is contributing to define concepts.**

121. A wide range of initiatives is under way to combat the phenomenon. Legislation, specialized units within law-enforcement agencies, policy frameworks, inter-institutional working groups, codes of conduct, hotlines, tools and awareness-raising campaigns on the safe use of the Internet combat and prevent online child pornography in different ways, trying to provide a multi-pronged response to a multifaceted problem. As recent or very recent initiatives, at this stage it is too early to assess their impact. As preliminary considerations, the Special Rapporteur notes that:

(a) Specific legislation including a definition of child pornography and the enumeration of the illegal activities related to child pornography is essential to prosecute this crime;

(b) Given the “technological” side of the phenomenon, the creation of specialized units within law-enforcement agencies dealing with Internet-related crimes makes a huge difference in terms of investigation capacity;

(c) Among the measures aimed at protecting children, most efforts focus on the protection of children when using the Internet and far less on protecting the victims of abuse. This is mainly due to the difficulties to identify the victims of child pornography;

(d) Many actors have a vital role to play in fighting and preventing online child pornography: Governments, law enforcement agencies, the private sector, in particular Internet service providers (ISPs), software designers, credit-card companies, NGOs, including consumers’ organizations, the media, teachers and educators, children and their families.

IV. RECOMMENDATIONS

122. Legislation is the starting point to address an issue with a human rights dimension. The absence of legislation on child pornography leaves a dangerous vacuum that exposes children to the risk of abuse, further increased by the impunity factor. The Special Rapporteur recommends the ratification of the Optional Protocol on the sale of children, child prostitution and child pornography and the adoption of its definition of child pornography.

123. Regarding legislation, the Special Rapporteur further recommends:

(a) To attach criminal consequences to the conduct of each participant in the chain of child pornography, from production to possession, complying with article 3, paragraph 1 (c), of the Optional Protocol;

(b) To introduce legislation creating the offence of “Internet grooming or luring”;

(c) To introduce legislation on ISPs envisaging not only their obligation to remove or prevent accessibility to illegal material of which they have knowledge, but also establishing a minimum monitoring obligation to prevent online child pornography;

(d) To consider the adoption of legislation on child erotica;

(e) To ensure that legislation on child pornography protects all children under the age of 18, regardless of the age of consent to sexual activity, which can be under 18. A child under 18 should not be considered as able to consent to engagement in pornography, prostitution or trafficking.

124. The creation of specialized units within law enforcement agencies dealing with Internet-related crimes is essential. These units must be adequately equipped not only in terms of technological means and expertise, but also be resourced with staff conversant with children's rights. Law-enforcement agencies should seek the collaboration of hotlines and ISPs in investigating cases and in identifying future challenges brought on by new technology.

125. The protection of victims of child pornography has been a neglected area in responding to the problem. More efforts and coordination are needed to:

- (a) Identify the victims of abuse;
- (b) Provide them with rehabilitation programmes and adequate compensation.

126. Raising awareness initiatives should involve children and adolescents. Peer education activities have proven particularly successful in this area.

127. A creative use of the media is crucial to get the message across. Awareness-raising campaigns should: train and sensitize journalists; make use of less traditional means of communication to convey messages (e.g. use cereal packets, target fast-food chains, use advertisements in airports and in-flight videos, etc.).

128. The private sector is an indispensable ally in this fight. Self-regulatory initiatives are to be encouraged. In particular, credit-card companies have a crucial role to stop the business supporting online child pornography. The Special Rapporteur urges credit-card companies to make all possible efforts to avoid accepting payment for child pornography web sites and to find ways not to allow payments through "e-gold". The Special Rapporteur is committed to further disseminate this recommendation and will make contact with credit-card companies in this regard.

129. International cooperation in this area could focus in particular on:

- (a) Assisting countries to adopt legislation on child pornography and a policy framework to combat and prevent the phenomenon;
- (b) Facilitating the sharing of experience, lessons learned and best practices;
- (c) Evaluating the impact of programmes and projects in this area by establishing indicators and success criteria.

Notes

- ¹ The Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation, adopted by the European Union Ministers for Equality and Justice in 1997.
- ² Report on the conference Combating Child Abuse on the Internet: An International Response, United Kingdom, March 2004.
- ³ The Governments of Côte d'Ivoire and Togo and a South African NGO.
- ⁴ Save the Children, "Position paper on child pornography and Internet-related sexual exploitation of children", Brussels, May 2004, pp. 12-13.
- ⁵ Save the Children, *op. cit.*, pp. 14 and 25.
- ⁶ Explanatory report on the Convention on Cybercrime, paras. 95-105, <http://conventions.coe.int/Treaty/en/Reports/Html/185.htm>.
- ⁷ General Assembly resolution S-27/2, para. 44 (41 and 47).
- ⁸ Article 25.3 of Law 163-03, free translation.
- ⁹ Court of Appeal, 2002 (EWCA Crim. 683), United Kingdom.
- ¹⁰ Research project "Pedophilia and pornography on the Internet", carried out in 2002 and 2003 by the Nobody's Children Foundation in Poland.
- ¹¹ He was, however, convicted of sexual molestation of the girls.
- ¹² See report on the mission to Brazil carried out by the Special Rapporteur in 2003 (E/CN.4/2004/9/Add.2, paras. 81 and 82).
- ¹³ See http://europa.eu.int/information_society/activities/sip/index_en.htm.
- ¹⁴ See www.inhope.org.
- ¹⁵ See www.saftonline.org.
- ¹⁶ Australia, Bulgaria, Germany, Greece, Iceland, Italy, Luxembourg, Norway, Spain, the Netherlands, and the United Kingdom.
- ¹⁷ See www.virtualglobaltaskforce.net
