

CASE revised document

The States Parties to the Present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and unalienable right of all members of the human family without distinction as to sex is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to Article 3 of the Universal Declaration of Human Rights and Articles 6 and 9 of the International Covenant on Civil and Political Rights, both of which affirm the right of all persons to life, liberty and the security of persons,

Having regard to Article 4 of the Universal Declaration of Human Rights and Article 8 of the International Covenant on Civil and Political Rights, both of which prohibit slavery and the slave trade in all its forms,

Having regard to Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights both of which recognize the right of all persons to be free from cruel, inhuman or degrading treatment or punishment,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein without discrimination of any kind, including distinction based on sex,

Noting that States Parties to the International Covenant on Civil and Political Rights undertake to secure the equal rights of women and men to enjoy all economic, social, cultural, civil and political rights,

Having regard to the 1949 Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others which states that prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family, and the community,

Recognizing that the Convention Against Torture prohibits cruel, inhuman and degrading treatment or punishment,

Having regard also to the Convention on the Elimination of all Forms of Discrimination Against Women which obligates States Parties to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of traffic in women,

Having regard also to the Convention on the Rights of the Child which obligates States Parties to protect the child from all forms of sexual exploitation and sexual abuse and obligates the States Parties to take all appropriate national, bilateral and multilateral measures to prevent (a) the inducement or coercion of a child to engage in any unlawful sexual activity, (b) the exploitative use of children in prostitution or other unlawful sexual practices and (c) the exploitative use of children in pornographic performances and materials,

Noting that the International Convention on the Elimination of All Forms of Racial Discrimination condemns any attempt to justify or promote racial hatred in any form,

Noting that the General Assembly, in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, reaffirmed the principles and standards set forth in the basic instruments regarding the international protection of human rights,

Concerned that women's human rights are seriously threatened by the massive and growing sexual exploitation of women,

Recognizing that sexuality is integral to the human being and that women have the right to sexual integrity and autonomy,

Recognizing further that sexual exploitation, including prostitution, abrogates these rights and subordinates women as a group, and therefore violates human dignity and the right of equality,

Concerned that sexual exploitation inflicts grave harm and often takes the extreme forms of sexual slavery, torture, mutilation and death,

Concerned that sexual violence and prostitution are not inevitable but are forms of sexual exploitation

Recognizing that the sexual exploitation of any woman is the sexual degradation of all women, deprives women of freedom of movement, and threatens women's safety and security, thus creating the conditions of sexual terrorism,

Concerned that human sexual exploitation, including prostitution, has increasingly become an integral part of national practices which have deprived women of their human rights,

Recognizing the need for a new convention that will affirm and expand the definitions of sexual exploitation which includes violence against women and prostitution as a violation of women's human rights,

Considering that there is no convention presently in existence which addresses sexual exploitation of adults,

Desiring to make more effective the struggle against sexual exploitation,

Have agreed as follows:

Part 1: General Provisions

Article 1: Definition of Sexual Exploitation

Sexual exploitation is a practice by which person (s) achieve sexual gratification, or financial gain, or advancement, through the abuse of a person's sexuality by abrogating that person's human right to dignity, equality, autonomy, and physical and mental well-being.

Article 2

Sexual exploitation takes the form of, but is not limited to:

- b) The denial of life through female infanticide and the murder of women by reason of their gender, including wife and widow murder.
- c) Subjection to cruel, inhuman and degrading treatment through the following: battering, pornography, prostitution, genital mutilation, female seclusion, dowry and bride price, forced sterilization and forced child-bearing, surrogacy, restricting the reproductive freedom of women, the use of women's reproductivity for third parties (the use of women's reproductivity for the purpose of sexual or commercial exploitation), sexual harassment, rape, incest, sexual abuse, and human trafficking.
- d) Subjection to sexual abuse and or torture whether perpetrated by State or non-State actors, overt or covert, including sadistic, mutilating practices.
- e) Temporary marriage, child marriages, or marriage of convenience for the purpose of sexual exploitation.
- f) Sex predetermination.

Article 3

The following shall apply throughout this Convention:

- a) Rape is sexual intercourse/sexual assault of any part of the body of a female of any age, by any means.
- b) Sexual harassment is the imposition of any unwelcome sexual acts, gestures, speech or materials.
- c) Prostitution is the use of a woman's body as a commodity to be bought, sold, rented, exchanged, not always for money, and includes casual prostitution, street prostitution, prostitution sanctioned by socio-cultural practices, brothels, military prostitution, development prostitution, pornography, sex tourism, and mail-order-bride markets.
- d) Everything that is herein said about the sexual exploitation of women applies to men and

boys in situations of sexual exploitation.

Part II: Sexual Exploitation

Article 4

States Parties condemn sexual exploitation of women and children in all of its forms and agree to formulate policies and practices affecting society to insure freedom from sexual exploitation by protecting control of one's body, sexual integrity, and sexual autonomy.

- a) States Parties recognize that some groups of women are rendered particularly vulnerable to sexual exploitations, such as minority and indigenous women, women subjected to racial discrimination, rural women and women in the migrating process, ethnically and socially marginalized women, mothers with children under the age of 18, women workers particularly in free trade zones, women in the sex entertainment industry, female children, elderly women, women with disabilities that are physical and mental, including learning disabilities and mental limitations (those who are intellectually challenged), and disabilities caused by substance abuse.
- b) States Parties recognize that women are rendered particularly vulnerable to sexual exploitation in the following situation: armed conflict, natural catastrophe, poverty, incarceration, including that of political prisoners and females in immigration and juvenile detention centers, institutional care, certain family contexts, including that of child sexual abuse, domestic violence, forced and child marriages, homelessness, and refugee status.

Article 5

States Parties shall punish perpetrators of sexual exploitation and redress the harm done to victims by developing penal, civil, labor and administrative sanctions. Victims shall be provided with assistance to prosecute their perpetrators. In the formulation and/or application of statutory, common, and customary law:

- a) A woman's prior history in prostitution and pornography cannot be used against her in any legal action.
- b) "Honor" shall not be used to justify or defend against any sexual exploitation or violence against women.
- c) It is an aggravating circumstance and not a defense of sexual exploitation that the perpetrator is the spouse or partner, father, other relative, care-giver, educator, or employer of the victim.
- d) A woman's status as an illegal immigrant or stateless person shall not be used against her.

Article 6

States Parties reject any policy or law that legitimates prostitution of any person, female or male, adult or child; that legalizes or regulates prostitution in any way including as a profession, occupation, or as entertainment; and agree to adopt appropriate legislation that recognizes prostitution as an acute form of sexual exploitation, including the following:

- c) Punishment of any person who procures, entices, or leads away by any means for the purposes of prostitution, another person, even with the consent of that person; exploits the prostitution of another person, even with the consent of that person; keeps or manages, or knowingly finances or takes part in the financing of a brothel; knowingly rents or lets a building or other place for the purpose of the prostitution of others.
- d) Penalization of the customers, recognizing them as perpetrators to be criminalized while rejecting any form of penalization of the person engaged in prostitution.
- e) Where criminal sanctions exist against victims of sexual exploitation, States Parties shall repeat such sanctions.
- f) Rejection of policies that include the mandatory registration of those in prostitution, mandatory counseling, and/or mandatory health checks, recognizing that such measures are not in the interest of the prostituted but of the sustainability of the industry, and serve to inscribe human rights violation into laws.
- g) Holding liable the producers, sellers, and distributors of pornography, recognizing that the pornography industry enlarges the demand for, promotes, and is actively engaged in the exploitation of women.

Part III: Global Situations of Sexual Exploitation

Article 7

States Parties agree:

- g) To recognize the production, distribution, and consumption of pornography as commercial sexual exploitation and as a violation of the human rights of women and children.
- h) To reject State economic development policies and practices which channel women into conditions of sexual exploitation.
- i) To insure that State policies and practices provide for the full economic development of women through their integration in dignified paid labor at a decent standard of living from which they have been deprived.
- j) To adopt legislative and other measures to prohibit sex tourism and to penalize those who organize tourism for the purpose of sexual exploitation, penalizing the organization of it as a practice of procuring and promoting prostitution. Such measures shall be adopted and implemented in both the countries from which the customers come and the countries to which they go.

- k) To provide educational programs to change harmful traditional or religious practices, social and cultural patterns that promote the sexual exploitation of women.

Article 8

States Parties agree:

- a) To adopt measures to prevent and prohibit the trafficking in women for the purpose of sexual exploitation, in particular, prostitution and pornography.
- b) To enact such regulations as are necessary for the protection of immigrant and emigrant women and children, both at the place of arrival and departure, and while in route.
- c) To arrange for appropriate publicity warning the public of the dangers of the traffic in women and children.
- d) To ensure supervision of railway stations, airports, seaports and en route, and of other public places, in order to prevent international traffic in women and children for the purpose of prostitution.
- e) To ensure that the appropriate authorities are informed of the arrival of persons who appear, *prima facie*, to be principals and accomplices in or victims of such traffic.

Article 9

States Parties recognize that there are certain types of work in the immigration process, such as domestic labor and entertainment, that are conducive to sexual exploitation and may lead to prostitution and pornography and shall take all appropriate measures to provide adequate protection to such victims of sexual exploitation including;

- a) Refuge, refugee status and protection, and repatriation of those who desire to be repatriated, whether victims of sexual exploitation have entered a country legally or illegally.
- b) Protection to insure that valid written contracts of employment are entered into, monitoring of the provisions of the contract, and protection of the migrant workers from sexual exploitation and abuse in the host country.
- c) The right to retain one's own passport and travel documents so that no person can be sold into prostitution by any other person.
- d) The right to shelter, medical care, counselling, rehabilitative care, protective care, and other support services
- e) The right of migrant women to be protected under existing labor laws of the recipient countries.

Article 10

States Parties shall insure that:

- a) All employers who sexually exploit, torture, or abuse migrant workers are held criminally and civilly liable.
- b) Persons or enterprises will be prohibited from and punished for promoting, profiting from, or engaging in any business involving the matching of women in marriage to foreign nationals, for example, mail-order-bride selling and pseudo-marriages.
- c) Under no circumstances can States construe this article to prevent women from migrating or travelling abroad.
- d) Their military, enforcement, and related civilian personnel, whether on or off base in foreign territory or in their own countries, shall be held legally liable and punished for engaging in prostitution of women and children and the production, consumption, and distribution of pornography.
- e) Their representatives, diplomatic officials, and related personnel shall be held criminally and civilly liable for sexual exploitation.

Article 11

States Parties shall adopt special provisions to prevent the sexual exploitation of women during all wartime conditions, including those of ethnic and communal conflict, civil war, riots, and foreign intervention, and to protect women and children from sexual exploitation in refugee camps and evacuation centers. States Parties recognize the necessity for a special team of observers composed of a majority of women to monitor violations of human rights in the area of sexual exploitation, trafficking, and the production, consumption, and distribution or pornography.

Part IV: Support Services

Article 12

States Parties agree to take appropriate measures to provide:

- a) Restitution to victims of sexual exploitation, and to insure that, notwithstanding the victims' immigration status, their reports of sexual exploitation receive a fair hearing.
- b) Women with educational programs and work in order to increase women's economic opportunities and enhance women's worth and status, thereby diminishing the necessity for women to turn to prostitution, notwithstanding the victims' immigration status.

Article 13

States Parties shall create and establish culturally competent services for victims of sexual exploitation, including prostitution and pornography, such as shelters and other social services, and shall fund long term health care, recognizing the long term health effects of sexual exploitation, and fund specialized (trauma informed) health services and centers for prostitution alternatives that are voluntary and confidential and would provide the following:

- a) Prevention, treatment of, and testing for STDs and HIV.
- b) Substance-abuse rehabilitation programs.
- c) Training of healthcare providers to recognize sexual exploitation, including rape, prostitution, pornography, and torture perpetrated in the domestic or private sphere to give appropriate treatment, and to make referrals to appropriate services as well as to gather medical evidence for prosecution of crimes of sexual exploitation.
- d) Free and elective counselling and education services.
- e) Child care facilities and housing assistance.
- f) Income support.
- g) Preferential access to credit and loans to being small-scale business.
- h) Non-sexist skills training programs.
- i) A victim's residence or voluntary or forced repatriation shall not cancel or limit state parties' obligations to provide health insurance or any of the services named.

Part V: Procedural Measures

Article 14

The present Convention shall be open for signature by all States.

Article 15

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 16

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 17

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 18

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 19

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 20

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 21

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 22

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.
