



**General Assembly**

Distr.  
GENERAL

A/HRC/4/31  
26 December 2006

Original: ENGLISH

---

HUMAN RIGHTS COUNCIL  
Fourth session  
Item 2 of the provisional agenda

**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251  
OF 15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL"**

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

## Summary

This report is submitted in accordance with Human Rights Council decision 2/102. In its resolution 2005/44, the Commission on Human Rights called upon all States, inter alia, to take the necessary measures to eliminate the sale of children, child prostitution and child pornography by adopting a holistic approach and addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structures, dysfunctional families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children.

In recent years the Special Rapporteur has received worrying allegations relating to the issue of illegal trafficking of children's organs and tissues, but the sporadic information remains in most cases unsubstantiated. The Special Rapporteur finds it important to examine the above problem in his annual report so as to better assess the issue of organ trafficking, in order to provide better protection for children in that area, keeping in mind that the best interests of children should always remain a primary consideration.

Also, the issue of abduction of children is a serious concern to the Special Rapporteur. The phenomenon of missing children has taken a worldwide importance, and requires a coordinated, comprehensive and global approach. With the objective of providing standards for other States, the Special Rapporteur deemed it worthwhile to provide further details on the different models already created in response to the problem. Rapid-response programmes such as those cited as examples are to be encouraged.

The report is based on information received from Governments, international organizations, non-governmental organizations and individuals in response to a questionnaire sent by the Special Rapporteur. It reflects the responses received from 27 countries, from several intergovernmental organizations and from various non-governmental organizations and individuals.

This report does not pretend to give a comprehensive analysis of the two issues discussed, but rather to highlight examples of international and regional standards and strategies as well as to discuss the situation in some countries, bearing in mind the legislation adopted and how institutions are working regarding these two issues.

## CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
I. ACTIVITIES OF THE SPECIAL RAPPORTEUR .....	1 - 7	4
II. MAIN DEVELOPMENTS IN RELATION TO THE MANDATE .....	8 - 17	5
A. Positive developments during the year .....	8 - 12	5
B. Report on violence against children .....	13 - 17	6
III. SALE OF CHILDREN'S ORGANS .....	18 - 66	7
A. International and regional standards/strategies .....	28 - 45	9
B. National strategies: responses from Governments .....	46 - 66	13
IV. RAPID-RESPONSE PROGRAMMES FOR ABDUCTED OR DISAPPEARED CHILDREN .....	67 - 77	17
A. International and regional standards .....	68	17
B. Global initiatives .....	69 - 70	18
C. National initiatives: National Centre for Missing and Exploited Children .....	71 - 72	18
D. Government responses .....	73 - 77	19
V. CONCLUSIONS .....	78 - 81	20
VI. RECOMMENDATIONS .....	82 - 86	21

## I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

1. The present report is submitted in accordance with Human Rights Council decision 2/102.
2. During 2006, the Special Rapporteur carried out one field mission to Ukraine. The aim of this mission was to acquire a better understanding of phenomena such as child trafficking, child prostitution and vulnerable children at risk. The report on the visit is submitted as an addendum to this report (A/HRC/4/31/Add.2).
3. Throughout the year 2006, the Special Rapporteur sent communications to Governments in the form of letters of allegation and urgent appeals, which are detailed along with the responses received from concerned Governments as an addendum to this report (A/HRC/4/31/Add.1).
4. In 2004, the Special Rapporteur had sent requests for invitations to the Governments of India and Thailand. In 2005, the Special Rapporteur sent a request for an invitation to Cambodia. This year, consultations with relevant partners of the mandate were held in Geneva to determine other countries that might possibly be visited in 2007. The Special Rapporteur in 2006 sent requests for invitations to visit Ukraine, which took place from 22 to 27 October 2006, and to Mexico. The Special Rapporteur has received positive responses to his request to visit Mexico in the first half of 2007 and to visit Thailand jointly with the Special Rapporteur on trafficking in persons, especially women and children. Since his appointment, the Special Rapporteur has also visited South Africa, France, Brazil, Paraguay, Romania, Albania and Greece.
5. The Special Rapporteur addressed the new Human Rights Council during its second session from 18 September to 6 October 2006 and presented his annual and mission reports at that time, and an interactive dialogue between concerned and interested countries and NGOs followed.
6. The Special Rapporteur participated, during his visit to Geneva in September 2006, in a parallel event on the reinforcement of the children's rights protection at United Nations level organized by the World Organization against Torture (OMCT), together with Paulo Sérgio Pinheiro, independent expert of the Study on violence against children; Norberto Liwski, expert member of the Committee on the Rights of the Child; Vitit Muntarbhorn, Chairman of the Coordination Committee of the special procedures and current Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea and former Special Rapporteur on the sale of children, child prostitution and child pornography (1991-1994); and Eugénie Nakpa Polo, member of the African Committee of Experts on the Rights and Welfare of the Child. The event aimed at discussing proposals for strengthening United Nations mechanisms for the protection of children's rights, in view of the follow-up of the United Nations Secretary-General's Study on violence against children, in the context of the Human Rights Council's review of special mechanisms.
7. During the period under review, the Special Rapporteur continued to receive late replies to the questionnaire sent for the preparation of last year's annual report, which focused on the

issue of demand for sexual services deriving from exploitation. The Special Rapporteur concluded that demand was a complex and multifaceted phenomenon. In any situation of child sexual exploitation, there were several different kinds of demand generated by different actors at different times. The demand factor went hand in hand with the supply factor and the reasons that push children into sexual exploitation were also multiple. The Special Rapporteur stressed that educational programmes as well as awareness-raising activities were essential to reduce demand for services deriving from sexual exploitation. Persons in prostitution should never be penalized - either directly for prostitution or indirectly for engaging in a commercial activity without a visa or permit. Non-criminalization ensured that women and children who are forced into prostitution have access to the authorities without fear of sanctions. However, child sexual exploitation should always be criminalized, whether committed at home (internal trafficking) or abroad, and whether involving an individual or an organized group. Consent of the child to trafficking is always to be considered irrelevant.

## **II. MAIN DEVELOPMENTS IN RELATION TO THE MANDATE**

### **A. Positive developments during the year**

8. The Special Rapporteur is pleased that 10 more countries, namely Algeria, Belgium, Burkina Faso, Cyprus, the Lao People's Democratic Republic, Latvia, Nepal, Sri Lanka, Switzerland and Thailand ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2006. The Special Rapporteur strongly encourages the States that have not yet done so to sign and ratify the two Optional Protocols to the Convention, the other being on children and armed conflict.

9. At the regional level, 2006 was marked by the signature by Governments of West and Central African States of a multilateral agreement and regional plan of action to fight trafficking in persons and build a wall against traffickers in both regions. The Agreement was signed at a Joint Economic Community of West African States (ECOWAS) and Economic Community of Central African States (ECCAS) Conference of Ministers to combat trafficking in persons held in Abuja, and hosted by ECOWAS.

10. Bilateral agreements were also signed in February 2006 between Albania and Greece on trafficking, and between Turkey and four neighbouring countries concerning trafficking in human beings to ensure cooperation with the police of other countries on that issue. Viet Nam and China organized in August 2006 a Children's Forum on cross-border trafficking between these two countries.

11. At the national level, in February 2006 Benin adopted an Anti-Trafficking Law and in April 2006 Slovenia signed the European Convention on Action against Trafficking in Human Beings. In November 2006, Peru announced the creation of the Children's Ombudsperson to oversee the defence and promotion of the rights of children and adolescents. As well, Afghanistan launched a new National Strategy for Children at Risk in May 2006, designed to improve care and support for the country's most vulnerable children. This strategy will set out to improve provision of care for working street children who are orphans, children in conflict

with the law, children deprived of parental care and children suffering abuse. Finally, the Syrian Arab Republic announced plans to elaborate a national programme to combat child prostitution and pornography and requested the assistance of the Office of the United Nations High Commissioner for Human Rights to this effect.

12. Initiatives taken over the year to fight child sex tourism also deserve to be highlighted, such as the one launched in June 2006 by Sri Lanka. A two-year action plan to stop commercial exploitation of children was signed by the Sri Lanka Tourist Board with the support of the United Nations Children's Fund (UNICEF). This follows previous initiatives taken in the past in South-East Asia as well as in Japan, France and Kenya.

### **B. Report on violence against children**

13. The year 2006 was marked by the presentation of the report on violence against children (the Study). In 2003, pursuant to General Assembly resolution 57/190, the Secretary-General appointed an independent expert, Paulo Sérgio Pinheiro, to lead the Study and provide a global picture of violence against children and recommendations to prevent and respond to this issue. The Study was prepared through a participatory process that included regional, subregional and national consultations, expert thematic meeting, field visits and the collaboration of the Governments through a questionnaire. It also involved the cooperation of different United Nations bodies, such as OHCHR, UNICEF and the World Health Organization (WHO), civil societies and children.

14. It is the first comprehensive, global analysis conducted by the United Nations that deals with all the forms of violence against children in its different settings (in homes, schools and educational settings, care and justice systems, in work settings and in the community in general). Directly engaging children in the analysis, this Study combines at the same time human rights, public health and a child protection perspective. Before examining the settings in which violence against children occurs, the Study set a global framework of the issue. The problem is still mainly hidden, unreported or under-recorded and data generated by international and local initiatives show that the majority of violent acts are perpetrated by people who are part of their lives. The Study also analysed the risk and protective factors on the question and the range of short- and long-term repercussions of violence on children.

15. The core message of the Study is that no violence against children is justifiable; all violence against children is preventable. There can be no compromise. Therefore, Member States, all sectors of the society, and all individuals must commit themselves in ensuring protection from all forms of violence against children. Paulo Sérgio Pinheiro addressed a number of overarching recommendations and specific ones relating to the different settings where violence occurs. Among the recommendations, the Study indicated that all States should strengthen national and local commitment, prohibit all violence against children, prioritize prevention, and promote non-violent values.

16. The Special Rapporteur would like to congratulate Mr. Pinheiro and his team for this outstanding Study. This first global report on the issue of violence against children will undoubtedly strengthen the efforts and progress already realized on the subject. With reference

to our mandate, the report will ameliorate the data collection on violence occurring because of the sale of children, child prostitution and child pornography and encourage the States parties to ratify and implement the Optional Protocol on the sale of children, child prostitution and child pornography.

17. More specifically, Mr. Pinheiro suggests, in order to ensure the safety of children in residential care and juvenile justice detention facilities, to reduce the numbers of children in those centres by decriminalizing “status offences”, survival behaviours and victimization by trafficking or criminal exploitation. With regard to violence against children occurring in the workplace, the report recommends that States implement domestic labour laws, mainstream the elimination of child labour and give priority to the “worst forms” of child labour, which are inherently violent. Where children are working illegally, it is important to ensure the availability of recovery and integration programmes. Finally, in the community context, the Study proposes several ideas, such as to enhance the prosecution of offences relating to the sale of children, child prostitution and child pornography through the review of domestic laws in order to abolish the requirement of “double criminality”.

### **III. SALE OF CHILDREN’S ORGANS**

18. During the past years, the Special Rapporteur has received worrying allegations relating to the issue of illegal trafficking of children’s organs and tissues. In fact, the sporadic information remains in most cases unsubstantiated. Trafficking of organs remains a sensitive issue, especially when involving vulnerable victims such as children. The Special Rapporteur finds it important to examine the above problem in his annual report so as to better assess the issue of organ trafficking. This will provide better protection for children in that area, keeping in mind the best interests of children which should always be a primary consideration.

19. According to information gathered, human organs and tissues are generally trafficked for different reasons. For example, they can be used for genetic research, religious or magic rituals, but are mainly trafficked for transplantation use. In fact, thanks to the rapid progress of medical science and technology, the success of organ transplantation is progressively increasing. However, a gap between the supply and demand for organs is continuing to widen. In fact, patient demand for transplants is so strong and the medical capacity to satisfy it so widespread, that shortages of organs are therefore bound to occur. It is alleged that, in recent years, international criminal organizations have detected the lucrative aspect of this black market. With the globalization of this phenomenon, the trade is becoming known as “transplant tourism”. As a result, this shortfall in the availability of organs in certain areas of the globe has generated a desperate search for them. Many people are thus prepared to travel to secure a transplant, and are even ready to put aside the questions about how the organ was obtained.

20. The Special Rapporteur believes that one of the major problems pertaining to this particular issue is that, while evidence abounds for the trade of adult organs, the search for proof concerning trade in children’s organs poses a still greater challenge. In fact, the knowledge of this particular organ trafficking remains weak due to an overload of rumours and hearsay. Most of the stories related to child organ trafficking have spontaneously arisen as “urban legends”, which could be defined as a false but widely believed form of modern folklore. The danger

of that is when the information gathered is partial or even inaccurate, intervention will unfortunately not be effective. For example, in Guatemala in 1994, several American nationals were attacked owing to unfounded rumours concerning trafficking of children for organ transplantation. Other rumours have since been denounced by the media in countries such as Azerbaijan, Mozambique, Brazil and India but not all the information obtained could be assessed.

21. The issue has previously been analysed by other Special Rapporteurs, in 1991 and 1999 respectively (E/CN.4/1991/51 and E/CN.4/1999/71), but blind spots persist. This is the reason why the Special Rapporteur thought it primordial to address this issue once again in his annual report. An extensive questionnaire was thus developed on the sale of children's organs and sent to all Member States and to intergovernmental and non-governmental organizations working on issues related to trafficking on 24 July 2006. Member States were requested to respond by 31 October 2006.

22. The questionnaire covered a number of queries on the subject. First of all, the Special Rapporteur wished to know about the framework that the Member States had elaborated. More specifically, the States and NGOs were probed on the multilateral, regional and bilateral arrangements developed in order to prevent and eliminate the sale of children's organs. Furthermore, another number of questions were set up in order to acquire more knowledge of the national legislation applicable on that matter, the different public institutions in charge of preventing, countering and eliminating the sale of child organs and their role and activities.

23. Secondly, the Special Rapporteur enquired about the factual context occurring in the different States, particularly if there had been official reports relating to the sale of organs in general and also involving children. If so, what had been the measures undertaken? Finally, two matters were tackled: if there had been cases of abduction or disappearance of children in which they were later found (alive or dead) with missing organs; and, if reports had been published relating to the existence of religious or magic rituals involving the removal of organs.

24. As of 12 December 2006, the following Governments had responded to the questionnaire: Austria, Belarus, Canada, Chile, Croatia, Cyprus, Denmark, Estonia, Finland, Germany, Honduras, Japan, Lithuania, Malta, Mauritius, Mexico, Moldova, Monaco, Nicaragua, Philippines, Qatar, Slovenia, Sweden, Turkey, Ukraine, the United Arab Emirates and Venezuela (Bolivarian Republic of).

25. The responses from Belarus and Ukraine were received on time and sent for translation. Unfortunately, these responses could not be debated in the report due to the non-receipt of the translations. As for the late responses received from Qatar and Moldova, they could also unfortunately not be considered in this report for the same reason.

26. The questionnaire was also sent to NGOs and intergovernmental organizations and replies were received from the Child Rights Information Network; World Vision International in Guatemala and Kenya; Save the Children in Guatemala, Norway, and Uganda; and Plan International in Togo, Guinea, Senegal, Mali, Ghana and West Africa. A response was also received from the International Centre for Missing and Exploited Children regarding the issue of rapid response programmes, which will be discussed later in the report.

27. The Special Rapporteur would like to warmly thank all those who responded to the questionnaire. Only a relevant selection of the experiences and initiatives on which information was received is outlined in this report.

### **A. International and regional standards/strategies**

28. Due to the rapid development of the organ and tissue trafficking issue, the Special Rapporteur finds it worthwhile to present the different standards and strategies that have been developed both on the international then on the regional level, in order to lay out a general overview on that particular question.

#### **1. International level**

29. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography ensures in its article 3 that different acts and activities must be covered under criminal or penal law as a minimum guarantee. In this specific context, the profitable act of offering, delivering or accepting, by whichever means, a child for the purpose of transfer of organs is expressly included. Furthermore, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime also defines the concept of trafficking in persons in its article 3. The removal of organs is defined as a case of exploitation.

30. The Committee on the Rights of the Child monitors implementation of the two Optional Protocols to the Convention, on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. Additional reports are also submitted for those who have acceded to the Optional Protocols. The Committee cannot consider individual complaints, although child rights may be raised before other committees with competence to consider individual complaints. In this regard, reports from several Member States (Italy, Norway, Turkey, Iceland, Kazakhstan, and Denmark)<sup>1</sup> have been submitted to the Committee that have alluded to the question of trafficking of organs in their country.

31. Several allegations were also brought to the Special Rapporteur's attention over the past years. These mainly cover two specific situations of children trafficked with the aim of removing their organs for transplantation, and of ritual killings in which human parts were offered as sacrifices. On 28 January 2004, an urgent appeal was sent to the Government of Mozambique concerning the situation of five nuns from the Sister Servants of Mary Immaculate who had been working in the Nampula region for over 30 years. According to the source, the nuns began to receive death threats after they had uncovered an organ-trafficking network. The Special Rapporteur expressed his deep concern about the threats and the allegations reported by the nuns (see E/CN.4/2005/78/Add.3).

32. WHO has also addressed this issue. The Special Rapporteur had the opportunity to hold discussions at WHO with the Clinical Procedures Unit in the Department of Essential Health Technologies, which covered the issue of organ and tissue transplantation for the preparation of this report. In 1991, WHO approved a set of Guiding Principles on human organ transplantation

in order to provide an orderly, ethical and acceptable framework for regulating the acquisition and transplantation of human organs for therapeutic purposes.<sup>2</sup> In such cases, the protection of minors could be assured by requiring the minor's comprehending consent and the consent of the parent or the legal guardian. Guiding principle 4 provides absolute prohibition of the removal of organs from legal minors, exception in the case of regenerative tissues. It adds in guiding principle 5 that no human body or parts can be the subject of commercial transactions, neither compensations nor rewards. Finally, guiding principle 7 prohibits physicians and other health professionals from engaging in organ transplantation procedures if they have reason to believe that the organs concerned have been the subject of commercial transactions.

33. In response to a request of the Government of Colombia, the Ethics Department and the Department of Essential Health Technologies of WHO undertook a study on the issue. The report was accepted by the Executive Board and, after several amendments, the fifty-seventh World Health Assembly adopted a resolution in May 2004, that urged the member States to take measures to protect the poorest and most vulnerable groups from "transplant tourism" and the sale of tissues and organs, including by giving attention to the wider problem of international trafficking in human organs.<sup>3</sup>

34. On 20 December 2004, the General Assembly of the United Nations, in its resolution 59/156, also made a recommendation on the issue of illicit removal and trafficking of human organs.<sup>4</sup> It requested the Eleventh United Nations Congress on Crime Prevention and Criminal Justice to prepare a study on the extent of the phenomenon for submission at its fifteenth session.

35. The United Nations Office on Drug and Crime (UNODC) has also contributed on this matter, through its Terrorism, Corruption and Human Trafficking division. According to UNODC, trafficking in human beings (including the removal of organs) is a global issue, and there is a need to strengthen the criminal justice response to trafficking through legislative reform, awareness-raising and training, as well as national and international cooperation. Thus, the Global Programme against Trafficking in Human Beings (GPAT) was launched in March 1999 with its main objective being to bring to the foreground the involvement of organized criminal groups on that issue. Its key components are data collection, assessment and technical cooperation. Pursuant to that aim, a report was issued in April 2006 entitled "Global Patterns", which constitutes an analysis of human trafficking data collected from 1996 to 2003 that shows patterns at the global, regional and national levels.

36. Moreover, several countries are involved in technical cooperation projects and specific intervention measures are introduced to strengthen the capacity to combat forms of trafficking. At the national levels, the programme helps, for example, to promote awareness-raising by public campaigns, to train law-enforcement officers, prosecutors and judges or to strengthen victim and witness support. For example, in the West African region, a project is currently under implementation covering Benin, Togo, and Nigeria. With support from Canada, France and Norway, the project carries out an assessment of human trafficking trends. Training for criminal justice practitioners was provided in February-March 2004 focusing on the investigation and prosecution of human trafficking as well as international cooperation. On an

international level, GPAT provides assistance to agencies, institutions and Governments in order to design effective measures against trafficking in human beings and cooperated closely with other intergovernmental and NGOs in the implementation of the activities.

37. Among the organizations working on the issue of trafficking of organs are Interpol and Europol. But due to lack of information on their activities, it is difficult for the Special Rapporteur to express his views as to what the two entities are currently undertaking. Finally, it is also worth mentioning the following legal standards developed by the World Medical Association (WMA) on the subject: the Statement on Live Organ Donation and Transplantation (revised in October 2006); the Resolution on the non-commercialization of human reproductive material (May 2003); the Statement on Fetal Tissue Transplantation (2006); and the Statement on In-Vitro Fertilization and Embryo Transplantation (2006).

## 2. Regional standards

38. On the regional level, the Council of Europe has greatly contributed through the elaboration of legal standards and publication of reports. A number of conventions and recommendations have been adopted by the Committee of Ministers, more specifically the Convention on Action against Trafficking in Human Beings (2005), the Convention on Human Rights and Biomedicine (1997), the Additional Protocol to the Convention on Human Rights and Biomedicine, on Transplantation of Organs and Tissues of Human Origin.<sup>5</sup> There were also recommendations relating to the issue: Recommendation No. 94 on human tissue banks, Recommendation No. 97 on liver transplantation from living related donors, and Recommendation No. 5 on the management of organ transplant waiting lists and waiting times.

39. The Rapporteur of the Social, Health and Family Affairs Committee of the Parliamentary Assembly of the Council of Europe, Ruth-Gaby Vermot-Mangold has also worked on the question of trafficking of organs. In June 2003, she submitted a report entitled "Trafficking in organs in Europe",<sup>6</sup> which raised important ethical questions on the subject. As a result, the Assembly called on the Council of Europe to develop a European strategy for combating trafficking in organs and recommended a number of concrete measures to be taken in the "donor" and the "demand" countries. According to the Rapporteur, most countries in Europe still have legislative loopholes in the domain of criminal responsibility in organ trafficking and it is rarely specified in details in national criminal codes. The Rapporteur also visited several countries of Eastern Europe, including Ukraine and Moldova. She mainly expressed her deep concern on the issue of the disappearance of newborn children in this area. Only three legal inquiries have been launched (in December 2002) and they have produced no concrete results to date. To date, no further updates on the investigations have been produced or made public by the Rapporteur.

40. Recommendation 1611, adopted in 2003, invited States to strengthen their existing mechanisms of cooperation with the Committee on the Organization Aspects of Cooperation in Organ Transplantation and step up funding for assistance activities in this area. It also recommended the adoption and application of the recommendations in the World Medical Association. As for the "demand" countries, it invited, among others, to take appropriate measures to encourage individuals to indicate, by means of statements of "consent", their

wish to donate their organs after their death, in order to increase the availability of organs and tissues obtained post-mortem. Finally, the principle according to which the human body and its parts shall not, as such, give rise to financial gain is part of the legal *acquis* of the Council of Europe. This principle was enacted by article 21 of the Convention on Human Rights and Biomedicine and reiterated in its Additional Protocol on Transplantation of Organs and Tissues of Human Origin.

41. The Steering Committee on Bioethics (CDBI) of the European Health Committee (CDSP) also works on the trafficking of organs in the framework of the Council of Europe. Among its activities, the CDBI aims to harmonize the policies of member States as far as possible and to prepare additional protocols to the Convention on human rights and biomedicine on ethical and legal questions related to different topics, such as organ transplantation. In June 2005, the Committee published the responses of 40 member States to a questionnaire on organ trafficking. Asked about the existence of allegations that residents have been travelling abroad to illegally sell or procure organs, the Committee noted that five States (Albania, Croatia, Cyprus, France and the United Kingdom of Great Britain and Northern Ireland) responded positively, without specifying if it involved children. Further asked about any official investigations having taken place in the past to ascertain allegations of organ trafficking, seven States responded positively (Albania, France, Georgia, Germany, the Russian Federation, Turkey and the United Kingdom) but only Albania mentioned a case involving a child.

42. Another regional scheme developed on the regional level is the Eurotransplant International Foundation. It is responsible for the mediation and allocation of organ donation procedures in Austria, Belgium, Germany, Luxemburg, the Netherlands, Slovenia and Croatia (a candidate country). In this international collaborative framework, the participants include all transplant hospitals, tissue-typing laboratories and hospitals where organ donations take place.

### 3. Other initiatives

43. On a non-governmental level, the Special Rapporteur would like to mention some of the initiatives undertaken. The work of the Bellagio Task Force on Securing Bodily Integrity for the Socially Disadvantaged in Transplant Surgery (1994-1996) was developed by Columbia University in order to produce a document on the use of organs for transplantation. The report that emerged from the Task Force<sup>7</sup> documented the many abuses that flow from the traffic in organs, including the sale of organs in countries such as India and the use of organs from executed prisoners, in countries such as China. It also analysed the complex sources of rumours of organ theft, which have not been documented but nevertheless point to the pervasive fears of a loss of bodily integrity by vulnerable populations. Its main recommendation is for the establishment of a permanent monitoring body through the creation of an international human donor surveillance committee that could firstly serve as a clearing-house for information on organ donation practices, and secondly, produce an annual review of declarations by international transplant and human rights groups on organ donation and examine the ethical issues in donation.

44. In a follow-up to the Bellagio Task Force, Nancy Scheper-Hughes and Lawrence Cohen of the Department of Anthropology, University of California at Berkeley, with support from the Open Society Institute (Soros Foundation) conducted ethnographic research in sites in Brazil,

India and South Africa during 1997-1998.<sup>8</sup> Their findings revealed different points and among them, that there existed strong and persistent race, class, and gender inequalities and injustices in the acquisition, harvesting and distribution of organs, persistent and flagrant human rights violations of cadavers in public morgues, with organs and tissues removed without any consent for international sale and a spread and persistence of narratives of terror concerning the theft and disappearance of bodies and body parts globally.

45. Further studies were conducted by Professor Scheper-Hughes also a member of the Bellagio Task Force. In 2000, she put forward a paper entitled “The global traffic in human organs”. Moreover, the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) submitted a report<sup>9</sup> in order to improve the flow of information related to the removal of organs, specifically to kidneys. The study concluded that effective regulation would require a system of free long-term health care for kidney-sellers. According to the report, in human and organ trafficking, the root causes are poverty and discrimination. Its recommendations for the Governments are to promote the ratification of relevant international instruments and to elaborate alternative measures such as increasing the supply of cadaver donations. The report suggests that NGOs undertake needs assessments in the area so as to provide specialized services to the victims of organ trafficking. The donor organizations’ contribution should be for example, to support research for campaigning purposes in order to encourage effective legislative action.

## **B. National strategies: responses from Governments**

### **1. Reported cases: replies of Governments and NGOs**

46. The questionnaire asked Governments to identify cases relating to the sale of organs involving adults and children, if there had been cases of abduction/disappearing of children where the victim was later found with a missing organ and if there had been reports relating to the existence of religious/magic rituals which could lead to the removal of organs. Based on the information received, few Member States have encountered cases of sale or trafficking of organs. Some of them have nevertheless been reported.

47. **Germany** indicated that there had only been reports relating to attempted trafficking of organs. In 2002, the Munich Regional Court found an individual guilty of attempted trafficking of organs from Eastern Europe. He was sentenced to 18 months in prison. Shortly after that, the Hombert/Efze local court held the view that offering one’s own kidney for sale on the Internet was considered an illegal trafficking attempt. Moreover, the Federal Criminal Police Office (BKA) is currently investigating different cases. The Mannheim public prosecutor’s office is looking into a case of a Chinese student who offered to act as a middleman in finding donors from an alleged Chinese public hospital. The Hanover public prosecutor’s office is also investigating a company based in Prague advertising access to donated kidneys without a waiting list. But in all the cases investigated in Germany, there has been no proof of illegal removal or transplantation of organs or human tissue, nor has there been any specific case related to the trafficking of children’s organs.

48. **Finland** reported a case of sale and/or trafficking of organs in which a minor was involved. Its National Bureau of Investigation is aware of a particular case in which intelligence reports suggest that, in 2004, a young Russian girl was transported through

Finland to another country possibly for the purpose of organ transplantation. Unfortunately, the information could not be confirmed and no evidence could be found by the intelligence reports.

49. **Turkey** stated that there had been allegations reported in the press of cases relating to the sale/trafficking of organs intervening some private medical clinics in Turkey where the foreign donors and receivers met and where the operation was conducted. However, it added that because the new Penal Code has been newly adopted and due to the statistics collection technique of the relevant judicial bodies in Turkey, it is impossible for the time being to provide any information on the court verdicts on this issue.

50. The same questionnaire was sent to non-governmental organizations and they have also highlighted allegations of cases of sale and/or trafficking of organs.

51. An NGO reported unconfirmed allegations obtained from local sources that organs from kidnapped children had been used for sacrificial purposes, precisely for witchcraft practices in Kenya and Zambia. In fact, according to the NGO, these practices involved the sacrificing of humans, especially children. The belief is that the ancestors to whom sacrifices are to be made in order to grant clients' requests require an innocent being that has not shed any blood in whatever form. According to the source, the child (usually aged between 4 and 10) is abducted, and then murdered for the removal of his/her organs. Another NGO also reported on allegations of organ trafficking for magic rituals that were taking place in countries like Ghana and Nigeria. The aim in removing human organs for that purpose is to fulfil one's political and financial ambitions. These statements, having not been confirmed by the Governments concerned or by other sources, remain unsubstantiated evidence.

52. Reports have recently been circulated in the press<sup>10</sup> indicating that Chinese officials had for the first time recognized the existence of an organ black market in China, originating from executed prisoners. According to these reports, no public officials were involved in the trafficking, only surgeons. Once again, having not been confirmed by the Governments concerned or by other sources, this statement remains unsubstantiated.

## 2. National standards/strategies: Government responses

53. The questionnaire also asked Governments and other recipients to identify the multilateral agreements concerning the prevention and elimination of the sale of children and bilateral or regional arrangements that had been elaborated to counter trafficking of organs. It was encouraging to note that respondents shared a common understanding of the issue of sale and/or trafficking of organs involving children. They have for the most part ratified a number of the multilateral conventions relating to the subject.

54. Only a few bilateral or regional arrangements have been adopted. In the framework of the Council of Europe, several conventions have been signed and ratified by a number of its member States. **Slovenia**, for example, stated that its Government had ratified the Convention on Action against Trafficking in Human Beings in April 2006. **Germany** also mentioned the Eurotransplant International Foundation previously described. And **Chile** indicated that it had signed a bilateral agreement with Argentina for the cooperation of their respective police forces.

55. One NGO based in West Africa reported some regional and bilateral agreements. According to this NGO, several countries have signed bilateral agreements to combat the trafficking of children, such as the agreement between Senegal and Mali or that between Mali and Guinea. In a more general context, a multilateral agreement was also signed by nine countries of the West African region relating to the same issue. Unfortunately, since the Special Rapporteur did not receive any responses from those specific countries, the signing of these agreements could not be ascertained.

56. The questionnaire enquired about the national (including regional/provincial/state) legislation applicable to prevent, counter and eliminate the sale of children as well as the public institutions in charge of these actions. The Special Rapporteur was pleased to receive a great deal of information on the legislations elaborated in several States. Those quoted in the report are intended to be a representative sample to illustrate the different range of standards being developed and actions being taken.

57. Most of the Governments have penalized the issue of trafficking in human organs in their respective Penal Codes, providing sanctions such as imprisonment and/or a fine. **Turkey** has an article in its new Penal Code on the issue of trafficking of organs and tissues that defines all the different scenarios of illegal removal of human organs and tissues as well as applicable penalties. It even includes the case of a person who gives out a notice or advertisement regarding the obtaining of human organs or tissue for a particular profit. Other countries have similar provisions in their Penal Codes such as Estonia, Slovenia, Mexico, Lithuania, Malta, Canada, Monaco, Finland, Sweden and the United Arab Emirates.

58. **Lithuania, Malta and Finland** also provide, in their above-mentioned provisions, aggravating circumstances relating to the issue of trafficking of organs or tissue that could strengthen the penalty. In **Finland**, for example, chapter 21 of the Penal Code stipulates that the removal of children's organs is considered as an aggravating circumstance.

59. Along with the provisions of the Penal Code, some States have also adopted other specific provisions or laws pertaining to the issue of trafficking of organs. **Turkey** adopted Law No. 2238 on Organ and Tissue Taking, Grafting and Transplantation which provides specific regulations when minors are involved in organ transplantation. **Germany** stated in its response the Transplantation Act, specifically section 17 relating to the trafficking of organs. The law stipulates that it is not necessary that the transplant has actually taken place in order to establish a case of trafficking. In **Chile**, the Law on Transplantation also relates to the sale of organs articulating that no organs can be the subject of commercial transactions. The **United Arab Emirates** stated that its Federal Act No. 15 of 1993 regulates the removal and transplant of human organs and prohibits any form of sale or purchase of human organs and any profiteering therefrom.

60. Other States have instead addressed the issue in general national legislations. The General Law on Health in **Mexico** has included in articles 461 and 462, specific provisions on the transportation of organs and tissues outside the Mexican borders and without the Ministry of Health or provisions on illegal obtaining, conservation, use and preparation of cadaver or fetus organs. The Law for the Protection of Children and Adolescents and the federal

Penal Code do not have any specific legislation on the issue of the sale of children's organs, but articles 11 to 13 of the Law for the Protection of Children and Adolescents encompass this issue. On the other hand, several federal states have integrated in their respective penal codes specific stipulation on the subject. The District Federal State has developed article 172 in its Penal Code and a similar understanding can be found in article 369 of the Penal Code of the State of Durango.

61. In federal countries such as **Mexico** and **Canada**, each level of Government has adopted legislations on that matter. **Canada** for instance, while providing regulations on the matter in the Criminal Code, strictly regulates organ transplantation/donation at the provincial/territorial level. In Quebec, the Civil Code provides specific articles in its chapter 64 on the issue and in British Columbia, this is in the Human Tissue Gift Act adopted in 2000. Both laws prohibit the sale, purchase and dealing in, directly or indirectly, any tissue or body parts. Moreover, the Criminal Code of Canada does not have a specific provision addressing the illegal removal of human organs and tissues but any general Criminal Code offences can be invoked for any removal that does not comply with the relevant legislation. Finally, the question of consent is dealt with in provincial legislation. In general, valid consent cannot be given directly by persons who are under age or who lack the necessary mental capacity, and the consent on behalf of such persons is limited to cases where there are valid therapeutic reasons.

62. The last question raised by the questionnaire dealt with the different public institutions in charge of preventing, countering and eliminating the sale of children's organs, their role and activities. A number of countries, such as Estonia, Mauritius, Turkey, Slovenia, Croatia, Japan, Venezuela, Malta, Sweden, Canada, Philippines, and Chile conferred responsibility for the issue of organ trafficking to the Ministry of Justice, Ministry of Health (and Social Welfare) and the police force. In **Mauritius**, the Ministry of Women and Child's Rights is also responsible in tackling the question of trafficking of women's and child's organs.

63. Several States have elaborated other public institutions specifically related to the issue. **Croatia** established in 2002 the National Committee for the Suppression of Trafficking in Persons, composed of representatives of State administrative bodies involved in the prevention of trafficking of persons, as well as representatives of legislative and judicial bodies and NGOs. Within this framework, a special Working Group for the Prevention of Trafficking in Children prepared the National Plan for the Suppression of Trafficking in Children for the period from October 2005 to December 2007. In **Sweden**, a similar inter-ministerial Working Group was set up in charge of compiling of knowledge about trafficking in human beings for the purpose of removal of organs and on that basis will propose a national action plan. The working group will present its results by the end of 2007.

64. In the **Philippines**, several public institutions are in charge in countering the sale of children's organs. The National Kidney and Transplant Institute is the designated lead government medical centre for organ transplantation in the Philippines. The Philippines Centre for Transnational Crime (PCTC) is the special police institution that pursues trafficking cases beyond the Philippines borders. The Inter-Agency Council against Trafficking (IACAT) is the multi-agency body created mainly mandated to coordinate, monitor and oversee the implementation of the same law.

65. **Canada** stated that specific oversight of processing and transplantation of human organs and tissue were undertaken thanks to the Canadian Institute for Health Information (CIHI) that acts as a focal point for collaboration between health actors (governments, regional health authorities, hospitals, researchers) and health-care professional associations. Furthermore, the Canadian Organ Replacement Register is a national database whose mandate is to record and analyse the level of activity and outcomes of vital organ transplantation and renal dialysis activities.

66. In **Germany**, the institutions involved in the organ donation, allocation and transplantation include hospitals and transplantation centres and the *Deutsche Stiftung Organtransplantation* (German organ transplant foundation), which is responsible for the coordination of organ donation in Germany, as well as Eurotransplant, which controls the mediation part of the allocation of organs.

#### **IV. RAPID-RESPONSE PROGRAMMES FOR ABDUCTED OR DISAPPEARED CHILDREN**

67. The issue of missing children has become a serious concern in a number of States. In fact, disappearances and abductions often constitute the first step for the perpetrators to achieve their goal, including sexual exploitation of the kidnapped children. Because it often involves the most vulnerable, the task is even more pressing. According to the Special Rapporteur, outreach on prevention and on fast and effective responses is essential. Rapid-response programmes should be encouraged in cases of abduction and disappearances of children. In fact, several States have already elaborated a number of legislative and administrative measures and programmes to tackle this issue. For example, centres for missing children with up-to-date facilities have been created. To provide standards for other States, the Special Rapporteur will provide further details on the different models already created in response to the problem.

##### **A. International and regional standards**

68. Several legal instruments have been elaborated at the international and regional levels to address this difficult issue. Articles 9 to 11 of the Convention on the Rights of the Child stipulate that all children have the right to maintain regular personal relations with both parents. Along with the Convention on the Rights of the Child, the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction<sup>11</sup> seeks to ensure the immediate return of children who have been unlawfully removed or retained in any of the contracting States. It also ensures that rights of custody and access laid down by the State in which the child is habitually resident are effectively respected in other contracting States. On the whole, the provisions of this Convention help to ensure that a child, through a clear and speedy process, is returned to his or her habitual domicile within 30 to 45 days, unless exceptions occur, such as if the child's return entails a risk of exposing him/her to danger. Furthermore, it is worth mentioning several standards developed at the regional level. The Council of Europe Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children<sup>12</sup> defines improper removal as the removal of a child across an international frontier. Lastly, the Council of Europe Convention on the Protection of Human Rights,<sup>13</sup> particularly its article 8, also ensures the right to family life.

## **B. Global initiatives**

69. The International Centre of Missing and Exploited Children (ICMEC) is a global agency founded in 1998 working for the well-being of children through activism, policy development and multinational coordination. It encourages the creation of new national, operational centres that are based on a public-private partnership model and established with the support of the national Government such as the National Centre for Missing and Exploited Children (NCMEC) in the United States and Child Focus in Belgium. The main objective of ICMEC is to develop in interested nations those centres including at minimum: a call centre, a photo distribution system and linkages with law enforcement by offering training, model policies and procedures, and technical support. A network comprised of 17 countries has also been developed. In fact, the Global Missing Children Network is a central and multilingual database featuring information about and photographs of missing children; 17 websites feed into it.

70. A number of countries have also demonstrated their interest in working closely with ICMEC, such as Costa Rica, Romania and South Africa. The South African Centre for Missing and Exploited Children (SACMEC) was launched in April 2004. The scope of its activities is broad but its flagship project is the tracing and recovery of missing children. Reported cases of missing children are dealt with following specific operational guidelines. These cases are immediately reported to SACMEC and each case is assigned to a dedicated case manager, who reports to the Director, liaises closely with relevant law-enforcement agencies and facilitates the sharing of information and resources. The SACMEC support staff also ensures the rapid dissemination of information on cases and assists in the process of repatriation, rehabilitation and follow-up counselling. Finally, cases of cross-border abduction are handled by SACMEC in cooperation with Interpol.

## **C. National initiatives: National Centre for Missing and Exploited Children**

71. The National Centre for Missing and Exploited Children (NCMEC), based in the United States of America, is a non-governmental organization founded upon the concept of public-private partnership. Congress provides the core funding but NCMEC remains a private entity. Since 1984, it has handled 2 million calls through its 24-hour call centre, disseminated millions of photos of missing children, and trained 211,000 professionals. Its recovery rate has climbed from 62 per cent in 1990 to 96 per cent today. Several divisions and programmes related to missing and abducted children exist within NCMEC.

72. The “AMBER Alert Plan” (America’s Missing: Broadcast Emergency Response) is a voluntary partnership between law-enforcement agencies and broadcasters to activate an urgent bulletin in the most serious child-abduction cases so as to instantly galvanize the entire community. NCMEC’s goal is to offer technical assistance and training, in concert with the United States Department of Justice, to all AMBER Alert Plans. A set of criteria have been put up in order to ensure a smooth AMBER Alert system. The main criteria are that the child has to encounter an imminent danger of serious bodily injury or death and that there is enough descriptive information on him/her. A toll-free call centre that operates a 24-hour hotline is also made available. The Case Analysis and Support Division works to identify patterns between cases from across the United States. Furthermore, “Code Adam” was created and promoted by

a large American retail store. When a customer reports a missing child to a store employee, a “Code Adam” is announced over the public-address system. A brief description of the child is obtained and provided to all designated employees, who stop their normal work to search. If the child is not found in 10 minutes, the store personnel contacts local law-enforcement officials for assistance. LOCATER (Lost Child Alert Technology Resource) is another programme, web-based, that helps law-enforcement agencies to rapidly distribute images and information by creating their own posters. In addition, several educational resources have been developed, such as “NetSmartz” for children aged 5 to 17, and training courses are also made available. Finally, it is worth mentioning Team HOPE, whose trained volunteers offer emotional support, compassion, and guidance to family members.

#### D. Government responses

73. The first set of questions on this issue (for a list of replies received, see paragraph 24) enquired as to the different legislative and administrative measures elaborated in the States to prevent children abductions or disappearances. Furthermore, it asked about legislative or administrative measures so as to alert the general population in case of a child abduction or disappearance, who were the authorities responsible for their implementation and the targeted population. The second part dealt with the factual context related to this issue. The questionnaire requested information about whether the rate of finding abducted and disappeared children had increased since the implementation of the alert measures, and if there had been any cases in which, following the implementation of the alert measures, children had been found alive and their abductor arrested.

74. Among the responses received, a great number of States have elaborated a normative framework. Germany, the Philippines, Canada, Honduras, Japan, Lithuania, Turkey, Monaco, Slovenia, Malta, Estonia, Nicaragua, Chile, and Mexico have incorporated offences in their respective Criminal Codes. The Penal Code (Act No. 5237 of 26 September 2004) in **Turkey** stipulates that whoever deprives a person of his/her liberty by illegally taking him/her to a place shall be sentenced to 1 or 5 years of imprisonment. And in the case of the abduction of children, the penalty shall be doubled. The Criminal Code of **Canada** has also provisions criminalizing abductions. Section 280 of the Code makes it an offence for anyone to take or cause to be taken any unmarried person under the age of 16. Section 281 establishes an offence for anyone who is not a parent, guardian or person having the lawful care and control of a person under 14 years of age to abduct a child. Finally, sections 282 to 283 respond to parental child abductions in or regardless cases of custody orders.

75. Other States have implemented a more general law for the protection of the child or adopted specific legislation. In **Lithuania**, Order No. 4 provides specific rules for the search for disappeared children. While implementing the Hague Convention, **Malta** adopted the Child Abduction Custody Act and **Mauritius**, the Act No. 19 of 2000. On the contrary, the provisions pertaining to this issue in **Venezuela** are included in its Organic Law for the Protection of Children and Adolescents.

76. Regarding measures to alert the population in cases of abducted or disappeared children, some States have also developed interesting programmes. In the **Philippines**, for example, when a case of abduction comes to the attention of the police authorities, the case is handed on to the

Police Anti-Crime Emergency Response (PACER). If it is assessed as a kidnap-for-ransom case, then PACER handles it; otherwise, the local police deal with it. Furthermore, the Philippines Centre for Transnational Crime (PCTC), a special police institution that pursues ransom cases beyond the national borders, the Armed Forces of the Philippines and the National Bureau of Investigation all contribute in responding quickly to cases of abductions. According to the Government's response, the creation of PACER has helped to better integrate and coordinate proactive efforts of all police units and thus, contributed to a higher success rate in getting the victims back safely.

77. **Mexico** has developed a special programme for disappeared and missing minors. Posters identifying the minors missing, abducted or kidnapped are rapidly disseminated and legal and psychological counselling are provided to the families enduring the trauma. Several standards have been elaborated, including the Modelo de Orientación Global and Modelo de Conciliación Interfamiliar, to help in the reunification process. Furthermore, since June 2004, a website pertaining to missing children was created and a booklet aiming to prevent this problem, entitled "Protect children from disappearance and abduction", is currently on its way.

## V. CONCLUSIONS

78. The Special Rapporteur would like to warmly thank all those who responded to the questionnaire. Although only relevant selections of the experiences and initiatives on which information was received are outlined in this report, the Special Rapporteur has found some very positive examples of preventive measures, institutions and programmes addressing both issues that deserve to be highlighted.

79. The issue of sale of organs and tissues, particularly of children's organs, remains for the moment mostly unsubstantiated. Although formal reports of organ and tissue trafficking are few, the disparity of costs, technologies and legislation related to this issue make it indispensable for the authorities to remain vigilant in order to avoid human organs and tissues becoming a trade commodity in which profit for some and desperation of other may lead to irremediable situations. Although there are reports of trafficking in organs and tissues involving violence against persons and children, diverse unconfirmed rumours persist. There is therefore a need to report and investigate when these allegations appear. The Special Rapporteur urges Governments to investigate thoroughly and ensure criminal sanctions against the traffickers and all those involved as child abusers.

80. The Special Rapporteur would also like, as a preventive measure, to remind Governments of the different safeguards put in place by different international and regional mechanisms, such as the Guiding Principles developed by the World Health Organization, the Conventions adopted by the Council of Europe and some examples of national legislation cited above. The Special Rapporteur takes this opportunity to invite all countries to establish legislation and standards so as to clearly regulate transplantation of organs and tissues. They should develop institutions to document and monitor all transplants taking place and to avoid the development of "transplant tourism", in which medical establishments open, taking advantage of disparities between the situation of the donor and the receiver, with significant risks for both persons involved in the transplant.

81. The Special Rapporteur also considers the phenomenon of child abduction to be of particular concern, as these disappearances and abductions often constitute the first step in abuses against children that can lead to sexual exploitation of the victims. The number of States having set up organized and effective systems to respond to children abductions is very limited, which results that when such a situation occurs, the first hours and days which are key for finding a missing child are being lost. Therefore, a coordinated, comprehensive, and global approach is required, where the different State institutions as well as NGOs and private business have a role to play. Among this, outreach on prevention and on fast and effective responses is essential. Rapid response programmes and initiatives taken by international and regional organizations such as the ones given as examples above are to be encouraged. States that have already elaborated legislative and administrative measures and programmes to tackle this issue are commended for their efforts and their successes in finding abducted children. These rapid response programmes are not only tools to respond to abducted and missing children, but also allow considerable improvement between the different organizations for prevention of violence against children.

## VI. RECOMMENDATIONS

82. **While noting that most States which responded to the questionnaire have adopted legislative measures to combat trafficking and sale of children organs, the Special Rapporteur recommends that States adopting or amending their legislation in this regard bear in mind the considerations set out below.**

83. **In line with the standards set by the Guiding Principles on human organ transplantation of the World Health Organization as well as with the Global Programme against Trafficking in Human Beings launched by the United Nations Office on Drug and Crime and the European Conventions on Action against Trafficking in Human Beings and Human Rights and Biomedicine, the Special Rapporteur invites States to incorporate into their national legislation prohibitions against any sale and trafficking of children's organs and tissues and effective safeguards to ensure implementation and to further develop bilateral and regional strategies to be able to document any cases should these happen and bring perpetrators to justice.**

84. **States should, in particular:**

**(a) Consider adopting legislation and standards regulating organ and tissue transplantation in line with the Guiding Principles developed by the World Health Organization and the World Medical Association;**

**(b) Enforce bilateral and regional cooperation through the elaboration of common standards, taking as an example the conventions and recommendations adopted by the Council of Europe, and adapt domestic laws and standards in line with these common principles;**

**(c) Establish an effective information network that investigates, documents and monitors allegations of traffic of organs and tissues, and ensure bilateral, regional and international cooperation between the law-enforcement agencies in charge of the fight against this traffic;**

**(d) Establish a centralized transplant agency in charge of coordinating receivers' needs and donors' situation, establishing transparent and equitable waiting lists for each category of organs, regions and all age groups;**

**(e) Clearly prohibit the sale of one's organs and tissues so as to eradicate demand for this traffic as well as to penalize heavily those who do so;**

**(f) Ensure that all children under the age of 18 are protected from becoming donors of organ and tissue transplantation, except in cases where an immediate family member is at a life-threatening risk, that no suitable donor has been found, that the donor's consent has been given, that this transplant will not cause a threat, immediate or future, to the donor and that this transplant will bring substantial health improvement to the receiver;**

**(g) Ensure that criminal proceedings against sellers, intermediaries and traffickers are initiated promptly and can be initiated ex officio.**

**85. Regarding the question of abduction of children and the need to address this issue in a coordinated, comprehensive and global approach, in line with the examples of rapid-response programmes discussed earlier, the Special Rapporteur recommends all States to set up rapid-response programmes and specifically:**

**(a) To incorporate in their national legislation provisions criminalizing abduction, and providing stricter penalties or aggravated circumstances in cases where victims are children;**

**(b) To establish, taking into account each State's capacity, resources and constraints, a central institution consisting of operational centres, based on a public-private partnership model and established with the support of the national Government which should include the following minimum: a call centre and Internet website that are easily accessible, a photo distribution system and linkages with law enforcement by offering training, model policies and procedures and technical support as well as a voluntary partnership between law-enforcement agencies and broadcasters to activate an urgent bulletin in the most serious child-abduction cases so as to instantly galvanize the entire local community;**

**(c) To cooperate bilaterally and regionally in establishing common standards and allowing unrestricted exchange of information between the different law-enforcement agencies of countries involved when addressing the search of a missing or abducted child;**

**(d) To clearly define the policies and scope of intervention so that when a case of an abducted or missing child is reported, the system is immediately activated and not left at the discretion of individual actors or other situations that may delay an immediate response;**

**(e) To involve NGOs and private actors in the rapid-response programmes, especially media and communication businesses and organizations that will be able to relay the alert message quickly and effectively;**

(f) **To establish assistance and rehabilitation facilities specifically designed for victims of violent abductions and their families in order to help them reintegrate into their community.**

86. **The Special Rapporteur stresses finally that educational programmes as well as awareness-raising activities are essential in the fight against traffic of organs as well as in addressing the issue of abduction of children. He calls upon States:**

(a) **To develop awareness-raising campaigns among health and law-enforcement officials on the issue of traffic of organs, gratuity and consent of the donor;**

(b) **To raise awareness among law-enforcement officials on the need to work together and cooperate fully and totally when investigating cases of children who are abducted;**

(c) **To ensure that the school curriculum includes child rights education that addresses the issue of abduction of children by strangers, but also by estranged parent or family members and provide resources available to help should children be confronted with such situations. Education on programmes and resources available is an essential tool to prevent children from becoming victims of such abductions and should be made available at all school levels;**

(d) **To develop assistance programmes for the reintegration of victims, emphasizing on physical, psychological aspects as well as legal assistance.**

#### Notes

<sup>1</sup> See CRC/C/OPSA/ITA/1, CRC/C/OPSA/NOR/1, CRC/C/OPSA/TUR/1, CRC/C/OPSA/ISL/A, CRC/C/OPSA/KAZ/1 and CRC/C/OPSA/DNK/1.

<sup>2</sup> Guiding Principles on human organ transplantation, adopted by the forty-second World Health Assembly, Geneva, 1989 (WHA40.13).

<sup>3</sup> “Human organ and tissue transplantation”, adopted by the fifty-seventh World Health Assembly, Geneva, 2004 (WHA57.18).

<sup>4</sup> Resolution 59/156 on “Preventing, combating and punishing trafficking in human organs”, adopted by the fifty-ninth session of the General Assembly in 2004.

<sup>5</sup> Council of Europe Convention on Action against Trafficking in Human Beings, *CETS* No. 197; Council of Europe Convention for the Protection of Human Rights and dignity of the human being with regard to the application of biology and medicine, *CETS* No. 164; Council of Europe Additional Protocol on the Convention on Human Rights and Biomedicine, on Transplantation of Organs and Tissues of Human Origin, *CETS* No. 186.

<sup>6</sup> Council of Europe, Rapporteur of the Social, Health and Family Affairs Committee of the Parliamentary Assembly, “Trafficking in organs in Europe”, June 2003.

<sup>7</sup> Rothman, D.J., et al., *The Bellagio Task Force Report on Transplantation, Bodily Integrity, and the International Traffic in Organs*, Columbia University, 1997.

<sup>8</sup> Scheper-Hughes, Nancy, “The global traffic in human organs”, *Current Anthropology*, Vol. 41, No. 2, April 2000.

<sup>9</sup> Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), Sector Project against Trafficking in Women, “Coercion in the kidney trade? A background study on trafficking in human organs worldwide”, April 2004.

<sup>10</sup> Asian News, “China officially admits executed prisoners are the basis of organ trafficking”, 16 November 2006 ([www.asianews.it](http://www.asianews.it)).

<sup>11</sup> The Hague Convention on the Civil Aspects of International Child Abduction, Hague Conference on Private International Law, 14th session, adopted on 25 October 1980 (entry into force on 1 December 1983).

<sup>12</sup> Council of Europe Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, *CETS* No. 105.

<sup>13</sup> Council of Europe Convention on the Protection of Human Rights and Fundamental Freedoms, *CETS* No. 05.

-----