

Notes for the Oral Presentation of the
Independent Expert, Mr. Paulo Sérgio Pinheiro
to the ECPAT General Assembly

Rio de Janeiro, 8 September 2005

Good Morning,

It is an honor for me to have the opportunity to address the ECPAT general assembly. Of course, it is also a great pleasure to come back to my hometown, Rio de Janeiro. As I was uncertain about translation, just some brief parts of my speech are going to be in Portuguese ...

I would like to thank my friends at ECPAT for their kind invitation. The collaboration of ECPAT with the study that I coordinate, the Secretary General's Study on Violence against Children, is exemplary. My presence in this assembly would be justifiable only to thank you for the more than 30 documents submitted for the study by ECPAT. These documents describe situations in countries from the different regions of the world such as Bangladesh, Chad, El Salvador, Honduras, India, Indonesia, Morocco, Russia and Tunisia. Those submissions bring a wealth of information on the various aspects of the fight against commercial sexual exploitation of children. They not only describe the threats and challenges of virtual space, the mechanisms of the sex tourism industry among other topics, but also present concrete initiatives and recommendations that could help us to succeed in this fight.

Since the beginning of the study process ECPAT has been an important source of energy and inspiration for the UN Study on Violence against Children. I am sure that this cooperation will be determinant factor for the success of the study and I hope that my presentation today would give you more reasons to engage even more with us and to transform in other initiatives this reflection process that is being generated around the study on violence against children.

Ladies and Gentlemen:

Your assembly in Rio de Janeiro gives me the opportunity to share some of the concrete knowledge that my knowledge with the human rights movement in Brazil provided to me. The flagrant contradiction between reality and the human rights ratified is a constant challenge for all Brazilians. Unacceptable contradictions that force us to review every day the path for implementation. Plans for follow up other excellent ideas frequently become legislation in this country, but that are rarely implemented.

In the area of child rights there is no doubt that Brazil is surely one outstanding example of transparent and rapid incorporation of some of the guidelines and directives of the international system for the protection of human rights. The Statute for the Child and the Adolescent (the ECA) is a formidable example of a legal framework for child rights, and the participation of civil society in the public debate has been strong and consistent in the last decades. At the same time, it is difficult to find countries that match the levels of urban violence and social and economic inequality that you find here, affecting especially the young ones. The number of casualties due to violence is outrageous, police violence is frequent, commercial sexual exploitation is still a reality for many children in rural and urban areas and as the inquiry led by Senator Saboya showed, the networks involved with those criminal activities included from business people to politicians.

Does that mean that what is being done here isn't worth? That the Statute for Child Rights is useless or that some of the programs to prevent violence are done in vain? Certainly not! This remarkable process and the instruments derived from many years of struggle for human rights in this country weren't able to change the full picture, but we would certainly be in a much more difficult position without this struggle.

The defence of the rights of the child had played a major role in the evolution of the international system of human rights. The Geneva Conventions already stressed the importance of the special needs of children and the importance of their protection. The positive and frequently idealized perception of children certainly influenced the adoption of higher standards for the respect of human dignity when children were included. At the same time, this idealization is accompanied by with the adoption of an enrooted paternalistic approach that frequently characterizes children as our future, forgetting that they are, before anything, their present.

Undoubtedly, the entry into force of the Convention on the Rights of the Child and its large-scale ratification by almost all member states is the most important landmark in this process. The Convention establishes solid grounds for an approach that conciliates the special respect required by the child due to its different and specific levels of development and the notion that every child is a human being entitled to full respect of his or her human rights. The concern with violence against children was present in the first international treaties as it is present in the Convention.

Fifteen years after this crucial moment, even if the vast majority of the world publicly disapproves of violence against children, violence remains too common. It is present in every country, frequently remaining invisible and cutting across boundaries of culture, education, income and age. Indeed, it is the extent and seriousness of violence experienced by children around the world and the need for urgent measures to confront violence that has prompted the Committee on the Rights of the Child to recommend the conduction of an in-depth international study on violence against children. The concern of the Committee echoed and was ratified by the member states at the General Assembly.

Two years ago I was appointed to lead this challenging endeavour. It is a huge task that I have the pleasure to share with many others. As you probably know, the study today involves partners from around the world including UN organisations, governments, community and civil society organisations, including, of course, ECPAT, academics and – not least – children themselves.

As the Independent Expert, for me this process recently involved some 50 days travelling around the world participating in nine regional consultation, meeting with governmental entities, non-governmental organisations (NGOs), academic institutions, child welfare organisations, community groups, professional associations, lawyers, medical doctors, faith-based groups, industry, and, evidently, young people. Experiences were shared, problems evaluated and recommendations were drafted by an extremely diverse and

active group of more than a thousand people – a unique opportunity for dialogue that sums up very well the spirit of the study.

Bringing different perspectives together has been a clear objective of the study from the very start. Even among the three UN agencies identified to coordinate the study (the Office of the High Commissioner for Human Rights, the World Health Organisation and UNICEF), the approaches are distinct: these three agencies bring together legal frameworks and international standards, on-the-ground public health, and child protection approaches.

Apart from promoting the regional consultations, a questionnaire was sent to governments requesting information about the major legal instruments and public policies related to violence against children. By August 2005, an impressive 118 member states had answered the questionnaire – a record for the UN system. In addition we received so far more than 250 formal submissions from interested parties, including those that I mentioned from ECPAT, and more than 2000 documents related to the topic of violence and children.

The study approaches the different forms of violence against children according to some of the settings where they are often found: homes and families, schools, institutions, the community and workplace. Cross cutting issues, such as gender based violence, sexual violence and discrimination will be highlighted in different parts of the report. The main outcomes expected from the study are a report to be presented in the General Assembly next year, summarizing the main findings and the crucial recommendations, a book with a more detailed analysis and a child friendly version.

There are obvious linkages between sexual violence against children and violence more generally that go beyond the rights of children and our efforts to fulfil our commitments to them. It is very difficult to isolate one form of violence, or one violation of the rights of the child. The context that surrounds the child that was commercially sexually exploited may frequently involve many forms of violence and, of course, the denial of many rights. Therefore the tasks of fighting against sexual exploitation cross with many other initiatives to respond and prevent violence in general.

Just to give one example, here in Brazil the connection is clear: the young girls that are exploited frequently come from social contexts marked by overlapping violations of their basic rights and, apart of the violence of the sexual exploitation itself, may be subject to police violence and other threats. Only articulated and comprehensive approaches may have some effect in these complicate chains. Isolated and fragmented policies repressing or even promoting awareness may help to bring the issues to the surface, but without continuity and articulation they may fail. If the police are never accountable, how will the trafficker will be?

It is clear that the Study on Violence against Children is already learning a lot from the work developed in the fight against sexual exploitation in two particularly important ways: First, since 1996 you have amassed a wealth of experience that must feed into the

Study and help us to develop recommendations for accelerating efforts to combat sexual violence against children – I believe that the submissions we have received are already clear prove of this.

ECPAT took the lead in exploring the problems related with the virtual space. The sex industry became diversified in the recent years and the technological development of Internet contributed a lot to the growing demand for commercial sex, frequently involving and harming children. Even if in some countries access to internet is not as widespread as in the north, the number of children exposed to this environment is increasing daily and the risk factors are not small. Children require clear and timely action to protect them for unnecessary risks.

The second clear linkage comes with our regional consultation process which was obviously inspired by the experience of the preparatory meetings for the Yokohama meeting. You have begun a process that, almost a decade after the first World Congress, is still dynamic and real in many parts of the world. The Study has much to learn from this empowering and energetic process. The networks that were established through this process, bringing together governmental and civil society entities, both regionally and globally, were a powerful fuel for the adoption of strategies to combat sexual exploitation all over the world.

In the regional consultations process of the study we noted the clear linkages between the two processes. The issue of sexual exploitation was among the most remarked topics by several entities, including governments. Sometimes, even strategies promoted through the Yokohama process were inspiration for follow-up mechanisms for the study on violence against children. For example, The South Asian inter-governmental group engaged in the combat of commercial sexual exploitation was involved in the Islamabad consultation and in the end, as a follow up mechanism, it was proposed that a similar cooperative mechanism be created to tackle the other various forms of violence against children. The Council of Europe, partner at the European Consultation, recalled the pioneering measures to eradicate sexual exploitation taken in Europe through the Yokohama process and stressed their initiatives to base on this experience improve mechanisms to combat violence in general.

Of course, this doesn't mean that the process achieved all the expected results in those regions, that the scenario changed drastically. The fight for implementation, as I said in the beginning is the most important and difficult one. I imagine that in the evaluation you are doing periodically you may raise many concerns about the pace and concreteness of the initiatives announced through the Yokohama process. In the near future, the same reviews are going to be needed for the Study on Violence process. That is actually essential. Without the pressure and close collaboration from civil society, very few mechanisms would have the same effectiveness.

NGOs and the UN

At the very moment that we are here gathered in Rio de Janeiro a most crucial process is taking place in New York in the preparation of the draft document for the reform of the UN. There is no doubt that ngos make a crucial contribution to the activities of all parts of the UN human rights system and with the UN reform being discussed we hope that this role to be enhanced. In June 2004 the report of the Panel of Eminent Persons on United Nations-Civil Society relations, coordinated by former President Cardoso clearly established the premise that enhancing dialogue and cooperation with civil society will make the United Nations more effective.

Certainly the most dramatic change for those working to monitor the implementation of Child rights issues will be the replacement of the Commission on Human Rights by a smaller standing Human Rights Council and possible changes in the process of reporting to the Committee on the Rights of the Child and other treaty bodies.

Perhaps one of the expected positive aspects of a council on human rights with a high status in the United Nations will most probably be that the issue of human rights will become much more visible and prevalent, particularly among the UN bodies in New York. The council will most probably be permanent and have a greater capacity to react on time to emergency situations, thereby enhancing its capacity to exercise more influence, if necessary.

During the discussions which initiated the discussion about the UN reform it was suggested that it would be necessary to establish certain criteria for the election of member states for the future Council. There have been a lot of propositions (for instance the ratification of core instruments, the cooperation with the special procedures, a standing invitation for special rapporteurs etc.) but until now, no consensus has been reached. But one must realize that it would be extremely difficult to define criteria for becoming a member of the Council of Human Rights. Of course ,the Council cannot become an academy of the good countries in terms of human rights. In an international community where “n’ y a que des malades” it would be very difficult to exclude some countries because of their record on human rights and of course it would be unthinkable that a UN Sec. Council permanent member would be excluded because of its human rights record. At the end I think that the only criteria which will prevail will be the geographic one. Of course the best scenario, advanced by some countries, and by the first report issued by eminent figures, would be to appoint persons and not states.

Another probable innovation will be that the human rights council would have an explicitly defined function as a chamber of **peer review** to evaluate the fulfilment by all states of all their human rights obligations. But certainly it would not be sufficient that the peer review would be limited to an appraisal of the “situation of human rights” in each country, something that international NGOs do with great competence. It would be necessary to have an intergovernmental review of the implementation of recommendations made by the special rapporteurs and the treaty bodies.

Considering the situation of child rights, I must mention some innovations concerning the treaty bodies including the CRC. Undoubtedly the treaty bodies, as well as the special

procedures (the special rapporteurs mechanisms) are vital to the efforts to better implement human rights obligations at the national level. They are an essential element in the UN protection system and the CRC for the protection of children rights. The OHCHR Plan of Action: Protection and Empowerment (Geneva May 2005) has clearly stated that Treaty Bodies must be better supported and made more effective and has indicated that it will develop proposals **for a unified standing treaty body**, and invite States parties to the seven human rights treaties (this includes the conventions on child rights, on torture, on all forms of discrimination and etc) to an intergovernmental meeting in 2006 to consider options.

There were objections that a single report to all treaty bodies would not have the level of detail or specificity required to fulfil its reporting obligations. But, perhaps the idea of an expanded core document could be useful because it would bring together information necessary to all treaty bodies, thus preventing duplication, and allow for the submission of more specific reports to each treaty body depending on their respective mandates. In the case of the CRC for instance a report on violence against children or on sexual exploitation only.

The Committee has systematically and strongly encouraged NGOs to submit reports, documentation or other information in order to provide it with a comprehensive picture and expertise as to how the Convention is being implemented in a particular country. The networking of international NGOs cooperating with the CRC developments had a profound impact not seen before in the human rights history.

But much more should be done. Child rights organizations may deepen their interaction with other human rights mechanisms such as the regional systems of human rights protection. There is also no doubt that the work of the treaty bodies could be enhanced by greater engagement of civil society, following the practice of the CRC, and the reform should consider practical ways for encouraging the contribution and participation of the ngos.

Children's rights are not only about children, the effective protection of the interest of the child passes definitively through a broad range of factors that may or may not assure safer conditions for the well development of the children. The achievements of the fight against sexual exploitation are certainly related to the ability that those involved in this process had in building the agenda for the prevention and combat of sexual exploitation while considering the diverse aspects that may facilitate the victimization of the child. The human rights framework and the international mechanisms for its promotion and protection have been up to now the most effective instruments for this ongoing fight.

As I stated in many consultations, the study on violence against children will not be a mere catalogue of horrors. It must be a clear call for action. The participation of the civil society in this process has been crucial and will be even more important for the follow up. Therefore I couldn't miss this opportunity to not only thank you very much for what

ECPAT is doing to contribute with the study, but to say that we expect that this interaction not only continues but also is expanded.

Thank you.