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***Title: International Norms and Standards for Protection of Child from Abuse-A Critical Analysis, Authored By: Dr. Manu Sharma, Asst. Prof. of Law & Co-Authored By: Mrs. Barsa Rani, Ph.D. Scholar (Law), School of Legal Studies & Governance, Career Point University, Hamirpur, Himachal Pradesh, Email Id(s): [Sharma7manu@gmail.com](mailto:Sharma7manu@gmail.com), [barshathakur773@gmail.com](mailto:barshathakur773@gmail.com),***



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### **ABSTRACT:**

*Children are protected by international law from all forms of abuse, including physical, sexual and emotional abuse. In addition, it is a worldwide issue that has detrimental effects on children and their families. Global child protection frameworks developed by agencies such as W.H.O, United Nations Convention on the Rights of the Child (UNCRC) and other agreements provide the foundation of global child abuse norms and standards. According to these standards, abuse of children or any type of mistreatment that affects their wellbeing, including neglect, sexual, emotional and physical abuse. The cornerstone of international response to child abuse is established by important treaties like the ILO treaties on child labor and UN Convention on the Rights of the Child. Overall, these norms serve to guide national legislation, promote child welfare, and ensure accountability in the global fight against child abuse. These norms create an atmosphere that upholds children's rights to safety, protection, and dignity. However, in the present scenario child abuse cases are increasing in spite of national and international sanctions. This research paper provides a background and suggests some strategy for an international approach to policy development in the area of child abuse. These recommendations ought to focus on promoting awareness, making agreement and bringing about social and economic transformation.*

**Keywords: Child, Child Abuse, Human Rights, Discrimination, International Law.**

### **I. INTRODUCTION:**

“The issue of child abuse has drawn attention from all around the world. The prevalence of children's sexual and physical as well as their different forms of exploitation is becoming more point of contention worldwide. The international community has developed numerous norms and standards to address child abuse, aiming to protect children from physical, emotional, and sexual harm, neglect, and exploitation. These frameworks are grounded in international human

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rights laws and conventions that oblige countries to implement protective measures for children. Children are susceptible to the long-term impact of abuse and neglect, even into adulthood. People who have been neglected or mistreated may experience things like a rise in mental health issues, a decline in interpersonal connections, more interaction with the criminal or prison system, and worse education attainment. Throughout much history, parents or guardians are primarily responsible for childcare. The state played a little or non-existent role in this regard. Children were considered the property of their parents in many cultures, and they were frequently subjected to severe discipline and physical punishment, which was often justified by moral or religious grounds. Even child labor, physical punishments, and child marriage were commonplace practice<sup>1</sup>. After World War second there was a significant shift in the way child abuse and child rights were viewed internationally. In the 1970s through the 1990s marked the beginning of more structured international efforts to combat child abuse through legally binding framework and conventions. In the 21<sup>st</sup> century, there has been a continued effort to refine Internationally norms and address new challenges in the fight against child abuse, including the rise of online child exploitation.<sup>2</sup>

Globally, it is estimated that up to 1 billion children aged 2-17 years have experienced physical, sexual or emotional violence or neglect in the past years. As estimated 558,889 children were victims of abuse and neglect in 2022. A global meta- analysis suggests that around 18% of girls and 8% boys have experienced some form of sexual abuse before the age of 18. Online child exploited increasing. In 2020, 21.7 million reports were made to the National Centre for missing & exploited children about suspected child sexual abuse. International treaties establish regulations pertaining to the special care, protection, aid and

<sup>1</sup> Alexander Muela, Elena Lopez Arana, “Child Abuse and Neglect – A Multidimensional Approach”<sup>12</sup>(In Tech Prepress, Novi Sad, 2012).

<sup>2</sup> Nirpuma Bhattacharya, “Historical Background and Evolution of Rights of Children” *2 International Journal Research in Law* 2 (1983).

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containment of minor. For the government that has ratified them, international treaties are of utmost importance. The international community establishes a continuous effort to ensure that the signature states appropriately carry out the convention requirement<sup>3</sup>. Therefore, it is very important to understand the problem of child abuse and provide for suggestive measures to deal with such problems. Understanding the reasons for increasing child abuse is the first step in this direction and is half done”.

## **II. OBJECTIVES:**

***To analyse the International legal framework on child abuse in the form of various conventions, conferences and decelerations:***

To analyse the drawbacks of international mechanism in controlling child abuse

To provide effective suggestions to control the prevalence of child abuse.

## **III. METHODOLOGY:**

For the present research paper, the Doctrinal Methodology has been adopted. For this purpose, various statutes, books, journals, commentaries, reports, magazines, newspapers, websites etc. have been consulted and referred. In preparing this paper, analytical, historical, and evaluative approaches have been applied to examine the existing laws, policies and their effects.

## **IV. MEANING AND CONCEPT OF CHILD ABUSE:**

The United Nations on the Rights of the Child (UNCRC) defines a child as a person who is under the age of 18 years, unless the law of the country they live in recognizes an earlier age of majority. This definition establishes 18 years as the standard age limit for childhood, ensuring that children below this age receive special protection and care under the convention. The UNCRC definition of a child is widely accepted by most countries, and it serves as a basis

<sup>3</sup> World Health Organization (W.H.O) “Child Maltreatment” available at [https:// www.who.int>children\(](https://www.who.int/children/) last visited on September 12, 2024)

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for enacting child protection laws and policies that promote the welfare and rights of children globally<sup>4</sup>. Children that are in vulnerable situations are a global societal issue that impacts all countries. Violence against children has been committed through history in a variety of forms, including sexual and labor exploitation, physical and emotional abuse, and more. Consequently, abuse of children is not a recent occurrence; it has existed from the dawn of time. Child abuse refers to any form of physical, emotional, sexual harm or neglect inflicted upon a child by parent, caregiver, or another person in a position of trust or authority. ***It can have long lasting effects on child development, emotional well-being and overall health. The main types of child abuse are:***

### **Physical Abuse:**

Deliberate uses of force against a child that cause injury or physical harm. It is one of the most recognized forms of child abuse and can have a severe long term physical and psychological consequences. Children who are physically abused may suffer from immediate injuries such as cuts and fractures. In severe cases, they may sustain brain damage, disfigurement or even death. In many nations corporal punishment is still a culturally accepted method of discipline, despite growing efforts to abolish it.

### **Emotional Abuse:**

Actions or behavior that harm a child's self-worth, sense of identity, or emotional development. Emotional abuse can have devastating effects on a child's development and long-term well-being. It is a form of abuse that is often hidden and difficult to identify, but it is just as harmful as physical or sexual abuse. Emotional abuse is usually subtle and difficult to detect. Because of a lack of physical evidence, some societies do not acknowledge or confront this abuse

### **Sexual Abuse:**

<sup>4</sup> United Nations Conventions on the Rights of the Child (UNCRC) 1989, Art.1.



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Child sexual abuse is serious violation of a child's rights and safety, involving any sexual activity forced upon or involving a child under the age of 18. It is a severe violation of a child's rights, often committed by someone the child knows, such as a family member, caregiver or person in the position of trust. Efforts to combat child sexual abuse must involve legal action support for survivors, and preventive measures to ensure the safety and well-being of children. Sexual abuse is a global problem, but it is frequently underreported due to fear or lack of legal protection.

### ***Neglect:***

The failure to meet a child's basic physical, emotional, educational, or medical needs. This can include not providing adequate food, shelter, medical care or supervision. In many countries, child neglect is recognized as a form of child abuse and legal framework are in place to protect children from it. Neglect is frequently associated with poverty and in some countries structural concerns such as war, economic instability, and societal neglect increase this type of maltreatment. Child abuse often has serious consequences for a child's physical and mental health, with potential long term effects including trauma anxiety, depression, and difficulty forming relationships. Child abuse is a profound violation of a child's right to safety and security. The consequences, if unaddressed, can affect every aspect of their life well into adulthood, making prevention, early intervention and adequate support crucial for healing and recovery<sup>5</sup>.

## **V. INTERNATIONAL LEGAL FRAMEWORK:**

The history of International legal framework addressing child abuse has evolved significantly over the last century. It reflects growing awareness of children's rights and the global recognition that children need special protection from harm. The first recognized child abuse society was established in North America in the late 19<sup>th</sup> century. However, it took another

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<sup>5</sup> Prof. Dr. Netkova Bistra, Prof. Dr. Ismail Zejneli, "International Standards Regarding Protection of Children of Maltreatment" 5 *Prizren Social Science Journal*, 4(2021)

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century for the *United Nations Convention on the rights of child abuse (UNCRC)*. The first UN reports made a strong recommendation that all forms of violence against children, including traditional damaging practices and corporal punishment, should be outlawed in all contexts. On the other hand, the “*Children’s Charter*,” the first piece of national legislation in England was approved in 1889. The Children Act 1989, which is the foundation of the current child protection system in England, is the result of the evolution of child protection legislation in England. The United Nations on the rights of the child, which was the first truly international law to specifically address child protection and abuse, came into effect one hundred years after the Children Charter. The UNCRC was established in 1989, and 193 UN members have approved of it since then. *The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, which went into effect nine years earlier and has 187 parties’ signatures, is the next most ratified human rights law in history. This convention on the Elimination of All Forms of Discrimination is one of the most significant International human rights treaties addressing gender equality and women rights. *Convention On the Elimination of All Forms of Discrimination (CEDAW)* entered into force on September 3, 1981. This made it one of the fastest ratified treaties in UN history. This makes it the most ratified human rights legislation in history. Becoming a party to International Law demonstrates a country’s commitment to child safety, although international legislation alone is insufficient. The implementation of the *United Nations Convention on the Rights of the child (UNCRC)* and other child protection legislation on a worldwide scale is challenging with numerous impediments. Over the past ten years, it has been evident that child abuse has occurred in every nation. Regardless of culture or country, there are universal aspects that define the essence of child abuse. Two recurring topics in international relations are gender inequality and sexual violence. It is a sad fact that children are most vulnerable to harm from those closest to them in setting up where they should feel safe. Combating violence against children has greatly benefited from international child protection legislation, most notably the UNCRC. It has been

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difficult to implement the UNCRC in low- income nations and it is still difficult<sup>6</sup>. All forms of physical, sexual and emotional abuse against children are prohibited under international law. Child abuse is a global issue that affects not only children but also their families. Every child is entitled to protection from violence, regardless of the situation. From birth forward, the child protection system serves as a bridge between children and the essentials social service and equitable judicial system. Children displaced by war or natural disasters, victim of child labor or human trafficking, those with impairments and those receiving alternative care are among the most vulnerable people they tend to secure children's prospects, we must also protect their physical and psychological needs. Internationally, child abuse has increasing attention from governments, non-governments organization (NGO's), and international bodies like the United Nation Convention on child rights (UNCRC), World Health Organization (WHO), and United Nations Emergency Fund (UNICEF). These organizations have been implementing framing child abuse as a critical issue that requires a collective and coordinated response.

### **The United Nations Convention on the Rights of Child**

#### **(UNCRC):**

Works to promote the rights of children by setting international standards for their treatment and care. UNCRC contains 54 articles that cover a wide range, including survival development, protection and participation rights. ***The UNCRC defines several key areas where children's rights must be upheld:***

#### **Survival and Development Rights:**

Every child has the right to life and the basic needs for physical and mental development such as healthcare, nutrition, and a standard of living that promote their well-being (Article 6, 24, 27)

#### **Protection Rights:**

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<sup>6</sup> Michelle, Cutland, "Child Abuse and Its Legislation: The Global Picture"<sup>97</sup> *Community Pediatrics Department* 7(2012)

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Children have the right to be protected from all forms of physical or mental violence, abuse, neglect, exploitation, and dangerous work (Article 19,32-36)

### **Education Right:**

Children have the right to free, compulsory primary education and countries must work towards making standard education accessible to all. (Article 28)

### **Option Protocol to the UNCRC:**

The UNCRC has three optional protocols that countries can also adopt, prohibit on the involvement of children in armed conflict, the sale of the children, child prostitution and child pornography and communication procedure which allows children to file complaints directly to the committee<sup>7</sup>.

### **ILO Convention 182:**

The International Labor Organization's Convention on the prohibition and Immediate Action for the Elimination of the Worst forms of Child Labor's referred to as ILO Convention 182. It is the one of the most extensively ratified International Labor Conventions, having been adopted on June 17,1999. These treaties aim to shield minors from the most hazardous types of exploitation such as child trafficking, forced labor and sexual exploitation<sup>8</sup>.

### **Sustainable Development Goals (SDG's):**

Sustainable Development Goal 16 is one of the 17 sustainable development goals established by the United Nations in 2015. The official wording is: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. The 2030 Agenda for Sustainable

<sup>7</sup> Committee on the Rights of the Child, *Indigenous Children and Their Rights Under The convention*, CRC/C/GC/11, UNCRC, (12 February, 2009).

<sup>8</sup> Michael j. Dennis, "The ILO Convention on the Worst Forms of Child Labor" 93 *American Journal of International Law* 943, (1999)

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Development emphasize ending all forms of violence against children which is mentioned in goal number 16 of (SDG)<sup>9</sup>.

### **United Nations Children Emergency Funds (UNICEF):**

UNICEF is a United Nations agency responsible for providing humanitarian and development assistance to children and mothers in developing countries. It was created on December 11, 1946, by the United Nations General Assembly as temporary organization to provide emergency food, shelter and healthcare to children in countries devastated by second World War. In 1953 UNICEF become a permanent part of the United Nations and UNICEF evolved into a global organization dedicated to promoting works to shield children from abuse, exploitation, and violence in more than 150 countries in order to stop child abuse in all manifestations and to support those who have experienced it, we collaborate with communities, corporations, governments, and civil society. To provide children with access to essential social services from infancy through adolescence, we work to strengthen the child protection system

### **UNICEF'S Global Initiatives:**

UNICEF has played a crucial role in international immunization campaigns, including the Global Polio Eradication initiative, and the fight against tetanus and measles. Globally these initiatives have prevented the death of millions of children.

### **NO Lost Generation Program:**

UNICEF developed the No Lost Generation Program to provide education and protection for children affected by the violence in Syria and surrounding countries.

### **UNICEF Kid Power:**

<sup>9</sup> Violence -Against Children- Sustainable Development Goals available at <https://sustainabledevelopment.un.org> (LAST Visited on September 25, 2024)

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It is a unique initiative that engages children and families in physical activity while raising funds for malnourished children worldwide. By participating, children earn points that unlocked food packets for malnourished children in need<sup>10</sup>.

### **Worlds Health Organization (WHO):**

Assists nations in gathering statistics and information about child abuse, creating national policies and programs to prevent violence against children, and setting up mechanism to provide emergency trauma care and proper medico- legal treatment.it is vitally important to safeguard and enhance children’s health. In the last few decades, there has been a significant improvement in the health and lower death rate of young children. In addition to other positive data, from 2000 to 2017, there were half as many children dying before the age of five due to lack of health facilities. Preventing violence against children is possible. It is necessary to systematically address risk to protective variables at all four interrelated levels of risk in order to prevent and respond to violence against children. Accordingly, to the world health organization (who) an estimated 1billion children worldwide are subjected to some form of violence annually. Sexual exploitation and online abuse are rising, particularly with increased internet access globally. Organizations like INTERPOL and UNICEF are working to combat the sexual exploitation of children online through international cooperation. Ten international organizations coordinated by the World Health Organization have created and approved the evidence- based technical package **INSPIRE**: Seven strategies for reducing violence against children.

#### **The seven strategies are:**

- The application and implementation of laws such as those that prohibit violent punishment

<sup>10</sup> United Nation Children Emergency Fund 1946, “Child Protection” available at [https:// www.unicef.org](https://www.unicef.org) (last visited on 8 September 2024).

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- Norms and values are socially constructed and can evolve over time as societies become more aware of their impacts or injustice.
- Safe environment by addressing local causes of violence, such as identifying neighborhood ‘hot spot’ is a crucial strategy in crime prevention and community safety.
- Parental and caregiver support is crucial for fostering healthy child development and preventing violence.
- Income and economic strengthening initiatives, such as microfinance and gender equality training are powerful tools for improving household stability, reducing poverty and promotion of gender equality.
- Response services provision for example ensuring that the children who are exposed to violence can access effective emergency care and receive psychosocial support.
- Education and life skills are essentials for children’s overall development<sup>11</sup>.

## **VI. INTERNATIONAL CASE LAWS:**

International case laws have played a critical role in shaping the legal framework for child protection and enforcing children’s rights. ***Some of the most significant international cases and judgement include:***

### ***Prosecutor v. Thomas Lubanga Dyilo (ICC, 2012):***

This was the first verdict delivered by the International Criminal Court (ICC), marking a landmark judgement in the fight against child exploitation in armed conflicts. Thomas Lubanga Dyilo, a Congolese warlord, was convicted of recruiting and using children under the age of 15 as soldiers in armed conflicts. Lubanga was sentenced to 14 years of imprisonment for war

<sup>11</sup>World Health Organization (W.H.O) INSPIRE: Seven Strategies for Ending Violence Against Children available at <http://www.unicef.org> (last visited on 5 August on 2024)

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crimes. This judgement set a significant precedent for holding leaders accountable for using child soldiers and committing sexual violence against children in conflict zones.<sup>12</sup>

**Roper v. Simmons (U.S. Supreme Court, 2005):**

In this case the U.S Supreme Court ruled that executing individuals for crimes committed when they were under the age of 18 violates the child's rights. Christopher Simmons was sentenced to death at 17, and the case challenged whether the death penalty could be applied to juvenile. The U.S Supreme court ruled that imposing the death penalty on offenders who were under 18 when they committed their crimes is unconstitutional. This decision had a major impact on international human rights norms, affirming that children must be treated differently from adults under the criminal juvenile system<sup>13</sup>.

**M.C. v. Bulgaria (ECHR 2003):**

In this case, a 14-year-old girl alleged that she was raped by two men. Bulgarian authorities refused to prosecute the men on the grounds that there was no evidence of physical resistance or violence, effectively applying a "force based" approach. M.C appealed that the European Court of Human Rights, arguing that the authorities failed to protect her from sexual violence. The court held that consent should be determined based on the child age and ability to freely give consent, rather than requiring proof of physical resistance. Thus, the case established a precedent that sexual violence against children should not be judged solely by physical resistance, but rather by the circumstances of vulnerability<sup>14</sup>.

**Villagran- Morales et v. Guatemala (IACHR 1999):**

In this case, five street children were kidnapped, tortured, and killed by Guatemala police officers in the early 1990s. the case was brought against the state of Guatemala for its failure to protect the children. The Inter American Court (IACHR) ruled that Guatemala had violated

<sup>12</sup> The Prosecutor Thomas Lubanga Dyilo, The Prosecutor Thomas v. Lubanga Dyilo, (2012), ICC

<sup>13</sup> Donald P. Ropper, Superintendent, Potosi Correctional Centre Petitioner v. Christopher Simmons, (2005), 543 U.S.551

<sup>14</sup> M.C v. Bulgaria, European Court of Human rights (2003) ECHR 39272/98



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several provisions of the American Convention on Human Rights, and Article 5 which is relate with the right to human treatment. The court also found that the state failed to provide special protection for children under Article 19 of the Right of the Child. This landmark decision recognized the vulnerability of street children and established that the state must provide special protection for street children<sup>15</sup>.

### **The Prosecutor v. Thomas Lubanga Dyilo (2012):**

The International Criminal Court convicted Lubanga for conscripting and enlisting children under 15 in to armed group in the Democratic Republic of Congo, this was the ICC's first case verdict and a landmark case in recognizing the International legal principle that recruiting child soldiers constitutes war crime. The International Criminal Court has jurisdiction over war crimes, genocide and crimes against humanity, involving child abuse.<sup>16</sup>

## **VII. LOOPHOLES AND DRAW BACKS:**

International laws play a critical role in establishing framework for child protection, but it faces several loopholes and drawbacks that hinder its effectiveness. Here are some of the main challenges.

### **Lack of Enforcement Mechanisms:**

Many international conventions and treaties, such as conventions on the rights of the child (CRC) are legally binding in principle and it fails to meet its obligation.

### **Inconsistent National implementation:**

International agreements like the CRC set broad principles, but the extent to which these are incorporated into national legislation varies significantly. Some countries may fully integrate child protection laws, while others may partially implement them.

<sup>15</sup> Street Children Case, (Villagran – Morales et v. Guatemala), (Judgement) (2001) IACHR, (Ser.C)No.77

<sup>16</sup> The prosecutor v. Thomas Lubanga Dyilo, International Criminal Court, (judgement) (2012) ICC-01/04-01/06

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### **Cultural and Legal Differences:**

National interpretation of child protection standards can differ based on cultural, religious and political context.

### **Weak Monitoring and Accountability:**

Countries may ratify treaties but fail to integrate the necessary protection into national laws or ensure proper implementation.

### **Insufficient Resources and Capacity:**

Many countries lack the resources or political will to adequately fund child protection services. This leads to weak enforcement of laws, even when international laws are ratified.

### **Lack of Coordination Among Agencies:**

Various International organization, NGO, and Governments may peruse child protection initiative independently, leading to duplication of efforts or gaps in services.

### **Online Exploitation:**

The rise of internet has led to new forms of child exploitation, including cyberbullying, child pornography and online grooming. International law has been slow to adapt to these technological changes and enforcement against online child abuse.

### **Climate Change and Displacement:**

Increasing environmental disasters and climate change related displacement create new vulnerabilities for children, including child trafficking and labor in refugee camps. These emerging threats are not fully addressed by existing international child protection.

## **VIII. CONCLUSION AND SUGGESTIONS:**

The problem of child abuse is very serious and heinous in nature. Child abuse has an uncalculated adverse effect on the growth, development and psyche of child that haunt him in the later stages of life also. Preventing child abuse on an international level requires a

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comprehensive, multi –faceted approach that integrates legal, social, educational strategies. These efforts must involve cooperation between governments, international organizations, NGO’s, communities and individuals. Some are the suggestions for preventing child abuse.

### **Strengthening Legal Framework and Enforcement:**

All the countries should implement and enforce international treaties such as the United Nations Convention on the Rights of the Child (UNCRC) and its optional protocol, which provides a legal foundation for protecting children from abuse, exploitation and neglect.

### **Increase Public Awareness and Legal Education:**

A child’s parents and school have been crucial in educating and enlightening them about their rights. Public campaigns should raise awareness about child abuse, its forms, and its effects on children’s development.

### **Strengthening Support System for Family’s:**

Poverty is one of the major factors which is responsible for child abuse and neglect. Financial support and career training for low-income families can reduce the stressors that frequently result in abusive setting.

### **Combat Online Exploitation and Abuse:**

Government must work with tech companies to strengthen cybersecurity protections that prevent the online exploitation of children.

### **Address Cultural and Societal Norms:**

Communities must engage in open dialogue and constructive criticism of cultural norms that encourage abuse such as child marriage, physical punishment and gender inequality. Programs aimed at changing cultural perceptions of children’s rights and protection should engage local groups, religious leaders and community leaders.

### **Focus On the Prevention of Child Trafficking and Exploitation:**

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Countries should develop national action plans to combat child trafficking for labor, sexual exploitation, or other abuses.

