

**ADDRESSING SEXUAL EXPLOITATION,  
TRAFFICKING IN AND SMUGGLING  
OF CHILDREN IN CARICOM  
MEMBER STATES,  
20 YEARS AFTER STOCKHOLM**

**FIFTEENTH REPORT TO THE SECRETARY  
GENERAL OF THE OAS ON THE MEASURES  
UNDERTAKEN BY MEMBER STATES TO  
PREVENT AND ERADICATE THE  
COMMERCIAL SEXUAL EXPLOITATION OF  
CHILDREN IN THE AMERICAS**

2018



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## GLOSSARY OF TERMS AND ACRONYMS

CARICOM: The Caribbean Community

Committee: Committee on the Rights of the Child

CRC or “The Convention”: Convention on the Rights of the Child

CSE: Commercial Sexual Exploitation

ECPAT International: End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes.

IIN: Inter-American Children’s Institute

OAS: Organization of American States

OPSC: Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography / Protocolo Facultativo a la Convención sobre los Derechos del Niño relativo a la Venta de Niños, la Prostitución Infantil y la Utilización de Niños en la Pornografía.

SEC: Sexual Exploitation of Children

This paper addresses the sexual exploitation of children and adolescents; when the terms women and men are used, they refer to adults. The occasional generic use of masculine terms is intended to promote brevity and clarity and should by no means be understood to imply discriminatory connotations of any kind.

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## BACKGROUND

The Inter-American Children's Institute (IIN), is a Specialized Organization of the Organization of American States (OAS) in policies related to childhood and adolescence. As such, the IIN assists the States in the development of public policies, contributing to their design and implementation from the perspective of promotion, protection and full respect for the rights of children in the region.

In view of the interest and concern expressed by OAS Member States in relation to the problem of sexual exploitation of children (SEC), as from 1998, the IIN began working actively on these issues. In 2007, its Directing Council adopted resolution CD/RES.10 (82-R/07) creating the *Inter-American Cooperation Programme for the Prevention and Eradication of Sexual Exploitation, Smuggling of and Trafficking in Children and Adolescents* (later renamed in resolution CD/RES 04 [87- R/12]).

The Inter-American Programme is organized in three workstreams:

**Working Area 1:** Compilation and synthesis of meaningful information regarding sexual exploitation, smuggling of and trafficking in children and adolescents, with special emphasis on output produced within the region, and making it available to States, organizations and interested parties. The model tool for this workstream is the *Inter-American Portal on Commercial Sexual Exploitation of Children*: [www.annaobserva.org](http://www.annaobserva.org).

**Working Area 2:** Producing knowledge and tools to boost States' capacity to address sexual exploitation, smuggling of and trafficking in children.

**Working Area 3:** Strengthening the capacity of the States to address sexual exploitation, smuggling of and trafficking in children, through technical assistance and training human resources.

Within the framework of working area 2, and pursuant to the resolution arising from the General Assembly of the OAS, AG/RES 1667 (XXIX-0/99), of 7 June 1999, the IIN submits an annual report to the Secretary General on action undertaken by the member States to combat the commercial sexual exploitation of children and adolescents (CSEC).

Since 2010, and until 2014, these reports were thematic, focusing on a specific modality or feature of the phenomenon that stood out for its significance and/or, which was requested by the States.

In 2016, on the 20th anniversary of the First World Congress Against Commercial Sexual Exploitation of Children, it was deemed appropriate to conduct a survey of the status of

the issue in the region, which led to this **Fifteenth Report to the Secretary General of the OAS.**

## INTRODUCTION

*“The commercial sexual exploitation of children is a fundamental violation of children’s rights. It **comprises sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons.** The child is treated as a **sexual object** and as a **commercial object**. The commercial sexual exploitation of children constitutes a form of coercion and violence against children, and amounts to forced labour and a contemporary form of slavery.”*

(Declaration arising from the meeting held in Stockholm on the occasion of the 1st World Congress against Commercial Sexual Exploitation of Children, 24 August 1996)

Children and adolescents may be used in remunerated sexual activities in different ways, such as<sup>1</sup>:

➤ Sexual exploitation of children in/through **prostitution**. *“Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration”.*<sup>2</sup>

➤ Using children and adolescents in **pornography**. *“Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”*<sup>3</sup>. This includes producing, distributing, disseminating, importing, exporting, offering, selling or possessing material whose content represents the sexual abuse of children.

➤ **Trafficking** in children and adolescents for the **purpose of sexual exploitation**. Trafficking in persons is understood to be: *“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”*. In the case of children and adolescents, the recruitment, transportation, transfer, harbouring or

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<sup>1</sup> Despite the definitions used in international and national legal frameworks, it is important to use the terms that are most appropriate to refer to and define phenomena, **without failing to underscore the fact that children and adolescents are victims**: child prostitution v using or exploiting children through prostitution; child pornography/pornographic material v using children in pornography/material depicting child sexual abuse.

For further information, see: Interagency Working Group on Sexual Exploitation of Children: *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*. Luxembourg, 2016. Available from: <http://luxembourgguidelines.org/> (see: 17/12/18).

<sup>2</sup> Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, 25/05/2000, Art. 2, par. b).

<sup>3</sup> Ibid. par. c).



receipt of a child shall be considered trafficking even if this does not involve any of the means set forth above (threats, use of force, deception, etc.).<sup>4</sup> The purpose of trafficking is always the exploitation of human beings. This exploitation may be sexual, but may also be related to labour; for domestic service, for begging, for sale, for illegal adoption, etc. Only trafficking for sexual exploitation is considered to be a form of SEC.

➤ **Marriage or sexual coercion.** Apparently affective relationships between underage teens or children and significantly older adults, in which there is, as a result, a clear inequality of power.

The **First World Congress Against Commercial Sexual Exploitation of Children**, held in Stockholm, Sweden, in 1996, was the event which positioned the issue of commercial sexual exploitation of children in the public eye for the first time. The Congress was organized jointly by UNICEF, the NGO Group for the Convention on the Rights of the Child and ECPAT International and drew more than 1,900 participants from over 130 countries, including: government representatives of 122 States, the United Nations, inter-governmental organizations, non-governmental organizations and a delegation of young people (FAPMI-ECPAT Spain, 2012).

As a result of the Congress, the well-known ***Declaration and Agenda for Action*** was proclaimed. (***Declaration arising from the meeting held in Stockholm on occasion of the First World Congress against Commercial Sexual Exploitation of Children***), in which all of those present called upon:

*“[...]all States in cooperation with national and international organizations and civil society to:*

- *Accord high priority to action against the commercial sexual exploitation of children and allocate adequate resources for this purpose;*
- *Promote stronger cooperation between States and all sectors of society to prevent children from entering the sex trade and to strengthen the role of families in protecting children against commercial sexual exploitation;*
- *Criminalize the commercial sexual exploitation of children, as well as other forms of sexual exploitation of children, and condemn and penalize all those offenders involved, whether local or foreign, while ensuring that the child victims of this practice are not penalized;*
- *Review and Revise, where appropriate, laws, policies, programmes and practices to eliminate the commercial sexual exploitation of children;*
- *Enforce laws, policies and programmes to protect children from commercial sexual exploitation and strengthen communication and cooperation between law enforcement authorities;*

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<sup>4</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. 2000.

- *Promote adoption, implementation and dissemination of laws, policies, and programmes supported by relevant regional, national and local mechanisms against the commercial sexual exploitation of children;*
- *Develop and Implement comprehensive gender-sensitive plans and programmes to prevent the commercial sexual exploitation of children, to protect and assist the child victims and to facilitate their recovery and reintegration into society;*
- *Create a climate through education, social mobilization, and development activities to ensure that parents and others legally responsible for children are able to fulfil their rights, duties and responsibilities to protect children from commercial sexual exploitation;*
- *Mobilize political and other partners, national and international communities, including intergovernmental organizations and non-governmental organizations, to assist countries in eliminating the commercial sexual exploitation of children; and*
- *Enhance the role of popular participation, including that of children, in preventing and eliminating the commercial sexual exploitation of children.*<sup>5</sup>

Upon recognition of these priorities for action, an ***Agenda for Action against Commercial Sexual Exploitation of Children*** was also drafted, and was organized in five categories, each focusing on the various aspects mentioned above: 1. Coordination and Cooperation; 2. Prevention; 3. Protection; 4. Recovery and Reintegration; 5. Child Participation.

Twenty years after this First World Congress, it has been deemed appropriate to undertake a synthesis and analysis of the status of these issues in the region, with the purpose of assessing progress made in the aforementioned categories and identify gaps, obstacles and challenges that still persist.

This is a qualitative study based on secondary sources of information on the **Member States of CARICOM: Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, Suriname and Trinidad and Tobago.**

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<sup>5</sup> Declaration and Agenda for Action. Declaration arising from the meeting held in Stockholm on occasion of the First World Congress against Commercial Sexual Exploitation of Children. Stockholm, 1996. Available from: [http://www.ecpat.org/wp-content/uploads/legacy/stockholm\\_declaration\\_1996.pdf](http://www.ecpat.org/wp-content/uploads/legacy/stockholm_declaration_1996.pdf)

The information contained in this paper was obtained from the **Reports that States submit to the Committee on the Convention on the Rights of the Child and the Concluding Observations that the Committee drafts in response** (see Appendix).<sup>6</sup>

Article 44 (CRC)

*1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights*

*(a) Within two years of the entry into force of the Convention for the State Party concerned;*

*(b) Thereafter every five years.*

This source provides access to information from all States, and is also the “official version” of such information. However, its weakness is that in many cases the reports are not current, owing to the procedures described and the failure of the States to comply with their filing dates. Consequently, we should note that there may have been developments that have not been reported, or negative issues that have already been corrected.

This report is in two parts. The first contains information compiled from the reports, arranged methodically according to the Stockholm classification. The second part contains conclusions and recommendations arising from an analysis of the information, highlighting common features among the States of the region, issues that show progress and others that should be reviewed in the light of theoretical, conceptual and practical developments that have occurred over the last twenty years and more.

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<sup>6</sup> Appendix: List of reports used as sources of information.

## ADDRESSING SEXUAL EXPLOITATION, TRAFFICKING IN AND SMUGGLING OF CHILDREN IN CARICOM MEMBER STATES

Before we begin, we should point out that none of the States in the region has yet submitted its first report specifically relating to the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography (in compliance with its Art. 12). The information was, therefore, obtained from the regular reports on the implementation of the Convention in general. As a result, we have observed that not all of the States address or define these issues explicitly and, therefore, do not report on them specifically, but, rather, report on sexual abuse, sexual violence or sex offences in general.

### 1) COORDINATION AND COOPERATION

#### 1.1) Nationally

##### 1.1.1) State institutions with responsibility for child-related affairs and, in particular, issues pertaining to sexual exploitation, trafficking in and smuggling of children and adolescents.

In **Antigua and Barbuda**, the lead agency in the promotion and protection of child rights is the *Citizens Welfare Division*, which answers to the *Ministry of Social Transformation, Human Resource Development, Youth and Gender Affairs* (Concluding Observations of the Committee to Antigua and Barbuda, 2017).<sup>7</sup>

In the matter of sexual offences, the *Sexual Offence Unit* was created in 2008, within the *Royal Police Force of Antigua and Barbuda*. “The Unit deals with all cases of sexual offences throughout the nation including those against children — both male and female. The aim of the Unit is to give assistance in the management of investigations and the collection of forensic and other evidence to assist in the prosecution of the cases” (Country Report, 2014: 27).

In the case of **Bahamas**, the agency responsible for coordinating child policies is the *Department of Social Services* of the *Ministry of Social Services and Community Development*.

The Department is organized in six broad programme divisions, one of which is the *Children and Family Services Division*. This Division is in turn divided into four specific units, one of

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<sup>7</sup> However, we should note that the State’s representation before the Directing Council of IIN-OAS rests with the Directorate of Gender Affairs.

which is the *Child Abuse Unit*, whose primary purpose is to “investigate reported cases of sexual, emotional and physical abuse” (Country Report, 2003: 12).

In **Barbados**, the *Child Care Board*, answering to the *Ministry of Family Culture Sports & Youth*, is the administrative body responsible for the issues of children in need of protection.

In **Belize**, “[...] responsible for Government’s policy development and coordination, and for the development and delivery of associated services and programs to families and children” is the *Family Services Division (FSD)*, of the *Ministry of Human Development’s Department of Human Services* (Country Report, 2003: 11).

In **Dominica**, the child protection bodies with responsibility in the matter of sexual abuse are the *Child Abuse Prevention Unit*, which is part of the *Welfare Division* of the *Ministry of Social Services, Community Development & Gender Affairs* (with primary responsibility for children's issues in general) and the *Dominica Police Force*. Both of these bodies work in coordination, which has been identified by the State as an important achievement in the necessary development of a multidisciplinary approach when addressing these issues (Country Report, 2003).

In **Grenada**, matters relating to children, gender and families are within the purview of the *Ministry of Social Development* (Country Report, 2008).<sup>8</sup>

In **Guyana**, the *Childcare and Protection Agency*, under the *Ministry of Labour, Human Services and Social Security*, is the body responsible for coordinating, implementing and monitoring policies for children.

A *Trafficking in Persons Unit* was established at the same Ministry, “with the mandate of developing greater awareness on TIP, to investigate alleged incidents of trafficking and to ensure that appropriate charges are brought against perpetrators. It is also responsible for facilitating assistance for victims” (Country Report, 2010: 93).

The Unit works in coordination with the *Police Force* in order to comply with its mandates as regards investigating reports, and in collaboration with the *Child Protection Agency* to provide financial and psychosocial support for victims.

In **Haiti** there is no single body that we can identify as being responsible for children's issues, but the *Social Welfare and Research Institute (IBESR)*, for its acronym in French) is playing a leading role in these matters and is in charge of coordination.

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<sup>8</sup> The State’s representation before the IIN-OAS rests with the Child Protection Authority.

The Institute is also primarily responsible for actions relating to trafficking in and smuggling of persons in general, and children and adolescents in particular. To this end, it works in coordination with the *Brigade for the Protection of Minors* of the *National Police*, established in 2002, and the *Directorate of Immigration and Emigration* of the *Ministry of the Interior and Local Government*<sup>9</sup>.

In **Jamaica**, a child protection system was set up under the Child Care and Protection Act (CCPA, 2004), which includes: The *Office of the Children's Advocate* (OCA), acting independently as a human rights body and "as a commission of Parliament for the purpose of 'protecting and enforcing the rights of children'"; the *Office of the Children's Registry* (OCR), and the *Child Development Agency* (CDA), an executive body under the Ministry of Health, "established as a service provider for child development and children in need of care and protection" (Country Report, 2011: 13).<sup>10</sup>

In addition, the *Jamaica Constabulary Force* has two specific departments with responsibility in the issues of sexual exploitation, trafficking and smuggling: The *Centre for the Investigation of Sexual Offences and Child Abuse* (CISOCA), which deals with sexual offences, and the *Trafficking in Persons (TIP) Unit* of the *Organized Crime Investigation Division*.

"CISOCA was established in the Jamaican Constabulary Police Force in 1989 as a response to the need for police sensitivity to victims of sexual assault. Its main objectives are: • Improving confidentiality of reports from victims; • The speedy and effective investigation of sexual offences; • Creating an atmosphere which encourages victims to report incidents of sexual offences; • Assisting in enhancing the rehabilitation of victims through counselling and therapy" (Country Report, 2011: 50)

Also worth mentioning, although it has lost some of its functions with the creation of the Children's Advocate, is the Victim Support Unit (VSU) of the *Ministry of Justice*, "the first of its kind in the Caribbean, [when it] was established in 1998 [...]. It provides "advocacy, court support, crisis intervention, advice and counselling services to individuals against whom crimes and civil offences have been committed [...]" (Country Report, 2011: 53).

In **Saint Kitts and Nevis**, the *Probation and Child Welfare Board* has responsibility for child-related issues. The Board is composed of twelve members, who represent the private and public sectors of both islands, and addresses issues such as child abuse, foster care and adoption (Committee's Concluding Observations to Saint Kitts and Nevis, 1999).<sup>11</sup>

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<sup>9</sup> Since 2012, there has been a protocol of understanding in place between these institutions, aimed at preventing the smuggling of children by means of the issuance of a certificate which must accompany all children who leave the country without their parents or guardians.

<sup>10</sup> The State's representation before the IIN-OAS rests with the Ministry of Youth and Culture.

<sup>11</sup> The State's representation to the IIN-OAS rests with the *Ministry of Health, Community, Development, Gender Affairs and Social Services*).

In **Saint Lucia**, the body responsible for the care and protection of children is the *Division of Human Services and Family Affairs* of the *Ministry of Health, Wellness, Family Affairs, National Mobilisation, Human Services and Gender Relations*.

The government body responsible for childhood affairs in **Saint Vincent and the Grenadines** is the *Ministry of National Mobilisation*.

In **Suriname**, the *Child Rights Bureau*, within the *Ministry of Social Affairs and Public Housing* (SOZAVO), has responsibility for the social protection of children.

Specifically, in 2007, a *special police anti-trafficking unit* was created within the *Police Department*, in charge of combating this problem by means of inspections, outreach and assistance to child victims (Country Report, 2014).

In **Trinidad and Tobago**, the provision of social services in general as well as child protection rests with the *Office of the Prime Minister*.<sup>12</sup>

### 1.1.2) Coordination Bodies<sup>13</sup>

In **Antigua and Barbuda** there is a *Trafficking in Persons Prevention Committee* established under the *Trafficking in Persons (Prevention) Act of 2010*. Its members are drawn from different sectors, including law enforcement, child-welfare agencies, immigration and NGOs.

A *National Task Force on Human Trafficking* was established in **Barbados** in 2012 (Committee's Concluding Observations to Barbados, 2017).

In **Guyana**, an *Interagency National Task Force* was established, which is responsible for tasks that include compiling data on cases of trafficking in persons (victims, offenders, circumstances), in order to achieve a clearer understanding of the phenomenon. The Task Force is chaired by the Minister of Home Affairs.

In **Haiti**, a *National Committee to Combat Human Trafficking (CNLTP)* was established in 2015.

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<sup>12</sup> Under the *Children's Authority Act, No. 64 of 2000*, the *Children's Authority* was created, with jurisdiction over various issues related to children, including: allegations of abuse; temporary care; monitoring of community residences, foster homes and nurseries for children; international abduction (Country Report, 2003: 6). However, by 2006 (date of the Committee's Concluding Observations), the law had not yet entered into force and, therefore, the Authority had not been created.

<sup>13</sup> By "coordination bodies" we mean officially constituted groups, committees or commissions.



In **Jamaica** there is a *National Anti-Trafficking Task Force*, which “allows for coordination among various NGOs and Government agencies – internal, international, and multilateral – on trafficking-related issues to provide for ongoing assessment of progress and monitor conditions of child labour in Jamaica” (Country Report, 2011: 130).

There is an *inter-agency anti-trafficking working group* in **Suriname**, led by the Chief Prosecutor.

No information was obtained regarding this aspect for the remaining States.

### 1.1.3) Cooperation with Civil Society

Civil society is essential in all of the States in the region, in order to implement policies and programmes for childhood in general. In some cases, through State subsidies; in others, agencies take on an independent role. **Barbados, Guyana, Haiti, Jamaica, Suriname and Trinidad and Tobago** are aware of the need for this.

In many cases, civil society organizations provide care and psychosocial support to girls and boys who are victims of violence. In Haiti, in particular, they play a leading role in the fight against trafficking in and smuggling of children and adolescents: “Civil society, for its part, has demonstrated a great interest in combating child trafficking. Several NGOs, including the *Groupe d'appui pour rapatriés et réfugiés* [Support Group for Returnees and Refugees] and the Pan American Development Foundation (PADF), have formed an antitrafficking group that has developed an action plan to combat the problem” (Country Report, 2013: 53).

**Saint Kitts and Nevis** and **Saint Lucia** are the only States in the region where there is no civil society participation, a fact which the Committee has noted with concern.

*“The Committee notes with concern [...] the generally limited participation of civil society in the promotion and implementation of the Convention. The Committee recommends that the State party take the necessary measures to encourage and facilitate the participation of civil society as well as the wider population in the promotion and implementation of the Convention”* (Committee’s Concluding Observations to Saint Kitts and Nevis, 1999: 3).

The Committee “notes with concern the limited role that civil society and in particular NGOs play in the promotion of the Convention on the Rights of the Child” (Committee’s Concluding Observations to Saint Lucia, 2005: 4).



#### 1.1.4) National Action Plans

According to their respective reports, and by their filing dates and those of the Committee's Observations in response, **Bahamas, Barbados, Dominica, Grenada, Guyana, Saint Lucia** and **Saint Kitts and Nevis** do not have a National Action Plan for Children or similar comprehensive policy or strategy in place that includes all aspects of the Convention. Neither do they have a plan or policy relating to sexual exploitation, smuggling of and/or trafficking in children.

**Antigua and Barbuda** reported that its *National Child Protection Policy* (NCP) would be submitted to the approval of the State Cabinet in 2014. "The stated strategic objective of the NCP is: 'to ensure that all children in Antigua and Barbuda are protected from abuse, neglect and exploitation'" (Ministry of Social Transformation, 2013:12) (Country Report, 2014: 11).

**Belize** refers to its *National Plan of Action for Children 2004-2015*.

**Haiti**, for its part, has a *National Plan for the Protection of Haitian Children in Difficult or Vulnerable Situations*, prepared in 2007 by the Ministry of Social Affairs and Labour (MAST), with the support of UNICEF, "which aims to ensure special protection for vulnerable children, including [...] child victims of trafficking, [...] and child victims of violence, sexual abuse and sexual exploitation" (Country Report, 2013: 11).

In addition, there is a *National Anti-Trafficking Action Plan* and a *National Action Plan to Prevent and Combat Violence*, both created in 2014.

**Jamaica** has designed a *National Framework of Action for Children*, which outlines six priority areas and goals in keeping with the United Nations' World Fit For Children. One of these areas is: "c) Protection against Abuse, Exploitation and Violence – The creation of a society that provides protection to those children whose protection rights have been compromised" (Country Report, 2011: 21). However, in 2015 the Framework had not yet been adopted (Concluding Observations Committee to Jamaica, 2015: 3).

There is also a *National Anti-Trafficking Task Force* in Jamaica.

**Saint Vincent and the Grenadines** has a *National Action Plan Against Trafficking* (Concluding Observations to Saint Vincent and the Grenadines, 2017: 14).

**Suriname** has developed a second *National Action Plan for Children*, covering the period 2009-2014, in which "Prevention and response to commercial sexual exploitation of children is included as a priority issue" (Country Report, 2014: 55).

There is also an *anti-trafficking strategy and plan of action (2014-2018)* (in the process of development at the time of writing).

**Trinidad and Tobago** is also on the second edition of its National Action Plan for Children.

## 1.2) Internationally

### 1.2.1) Interstate Coordination

Overall, the States' reports contain no reference to interstate coordination on issues relating to sexual exploitation, trafficking in and smuggling of children and adolescents. Only Haiti and Jamaica report the existence of coordination to address the problem of human trafficking and smuggling.

In relation to its procedures to authorize Haitian children to leave the country, **Haiti** reports that certificate templates "have been forwarded to [...] children's authorities in Brazil, Argentina, the Dominican Republic and Chile, countries that receive a large number of Haitian children who lack the appropriate documentation" (Country Report, 2013: 30)

**Jamaica**, for its part, reports that its Police Department has cooperated with its counterparts in Guyana, Trinidad and Tobago and the Dominican Republic on these matters (Country Report, 2011).

### 1.2.2) International Cooperation

International cooperation through the United Nations agencies and regional bodies is critical to the defence and realization of the rights of children and adolescents in all of the States in the region. This collaboration is achieved through technical support, funding for programmes and projects (through donations or loans) and by conducting research on children.

Some of the main agencies offering this support are: the *World Bank*, the *International Monetary Fund (IMF)*, the *United Nations Development Programme (UNDP)* the *United Nations Population Fund (UNFPA)*, the *World Health Organization (WHO)*, the *Pan American Health Organization (PAHO)*, the *Inter-American Development Bank (IDB)*, the *Economic Commission for Latin America and the Caribbean (ECLAC)* and the *Caribbean Development Bank (CDB)*.

**Barbados, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Suriname and Trinidad and Tobago** have received support from some of these bodies (Country Report, 2014;

Country Report, 2003; Committee's Observations to Grenada, 2010; Country Report, 2010; Country Report, 2013; Country Report, 2011; Country Report, 2011; Country Report, 2014; Country Report, 2003).

The *United Nations Children's Fund* (UNICEF) deserves a particular mention for its key role in the development of public policies in the region. One of the areas in which it works the hardest, leading to the repeated recommendation of the Committee to all of the States, is in relation to mechanisms for compiling and systematizing data on children.

We should also highlight the support of the *International Organization for Migration* (IOM) in addressing the problem of human trafficking. For example, in **Guyana**, the Trafficking in Persons Unit receives the collaboration of the IOM to provide medical care to foreign victims and to finance their repatriation, as well as training in victim identification, examination and prosecution of perpetrators (Country Report, 2010). **Jamaica's** police and court personnel have also received training from the IOM (Country Report, 2011).

Finally, the *Organization of Eastern Caribbean States* (OECS) also played a significant role as a regional mechanism. In 2006, the OECS set itself the aim of harmonizing the laws and legal provisions of its nine member States with the provisions of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. To this end, it drafted model laws to serve as a guide for the development of bills relating to: families, domestic violence, adoption, family courts and juvenile justice. **Antigua and Barbuda, Grenada, Saint Lucia and Saint Vincent and the Grenadines** participated in this legislative reform initiative (Country Report, 2014; Country Report, 2008; Country Report, 2011; Country Report, n.d.).

## 2) PREVENTION

Action related to prevention is basically of two types: community awareness-raising in general, and training for actors who are involved with children during the course of their duties. It is in this line of action where issues are addressed more generically or indistinctly; abuse and sexual violence, or even ill-treatment in general, and not specifically as exploitation, trafficking and smuggling (at least according to the information provided in the reports). However, some actions can be used as examples.

In **Antigua and Barbuda**, in 2013, the Ministry of Social Transformation began to publish a series of anonymous testimonials in the most widely distributed newspaper, written by people who had been subjected to all kinds of abuse when they were children (mainly sexual abuse), with the purpose of increasing public awareness of this problem. "Many citizens have expressed outrage at the abuse and have begun to agitate for greater societal

vigilance in protecting the nation's children from such harmful practices" (Country Report, 2014: 28).

In **Barbados**, there are some actions that we should note, involving awareness-raising and training on child abuse aimed at different audiences, carried out by the Child Care Board. For example, the Board has conducted information campaigns in order to raise the population's awareness regarding the harmful effects of child abuse. It has delivered workshops to teachers and counsellors in order to help them detect and report cases of child abuse; it has developed an awareness-raising programme for primary school children with the purpose of providing them with information to help them should they fall victims to abuse (2005-2006) (Country Report, 2014).

In **Belize**, the National Organization for the Prevention of Child Abuse delivers parenting workshops and, among other things, focuses on helping parents to teach children to distinguish between good touch and bad touch (Country Report, 2003).

**Dominica** has a Child Abuse Prevention Programme, which includes sexual abuse and is under the responsibility of the Social Welfare Division. "The Programme has three levels. The first or primary level of prevention involves to a large extent the whole population. The nation is sensitized through public education using the mass media and also a child abuse special week of activities. The impact is seen through the increase of reported cases by members of the public. The second level of prevention involves professionals, particularly teachers, nurses, police and social workers, who come into regular contact with children and their families. These professionals are exposed to training on the issue of child abuse. At a third level of prevention, treatment is provided for victims and their families both to deter abuse and also for rehabilitation" (Country Report, 2003: 34).

In **Guyana** there is emphasis on training activities. "[...] the TIP [Trafficking in Persons] Unit at the MLHSS [Ministry of Labour, Human Services and Social Security] has facilitated training for other agencies including for the Criminal Investigation Department of the Police. Additionally, the Ministry of Home Affairs trained investigators and prosecutors in 2009 on TIP. Media kits, documentaries, guidelines for interviewing victims and a guide to the underlying principles of working with victims, particularly children, were used and distributed" (Country Report, 2010: 94).

In **Jamaica**, the Bureau of Women's Affairs (BWA), a Government agency devoted to the defence of women and girls, assisted with the dissemination of information on the Convention on the Rights of the Child and other subjects, through workshops and seminars within the various ministries (Country Report, 2011).

In **Saint Vincent and the Grenadines**, the Ministry of National Mobilisation designated the month of April in each year as Child Abuse Prevention Month. During this month, the

provisions of the Convention are the topic of national discussion in the print and electronic media (Country Report, n.d.).

With regard to **Saint Lucia**, the Committee states, “[...] the State party has undertaken initiatives to address child sexual exploitation and abuse, including participation in Caribbean Community (CARICOM) regional meetings, training workshops on child sexual abuse, and widespread public sensitization campaigns, including the ‘Break the Silence’ campaign [...]” (Committee’s Concluding Observations, 2013: 8). In addition, a number of workshops have been conducted in order to raise awareness among different significant stakeholders – teachers, principals, judges, magistrates, lawyers, court prosecutors, religious leaders, community workers, parents and children – about procedures for reporting and referring cases of child abuse and neglect (Country Report, 2011).

Of particular note in **Suriname** is the Pilot Project Prevention on Sexual Abuse of Children of the Ministry of Justice and Police, which included the production of a documentary on the subject by the Bureau for Women and Child Policy. It was broadcast on several television channels with the purpose of raising “public awareness on early detection of sexual abuse, available services and the importance of the reporting of child abuse. Educational material was distributed amongst 24 primary schools to guide teachers in the symptoms of sexual abuse, discussion of the subject of sexual abuse in schools [...]” (Country Report, 2014: 17).

In **Trinidad and Tobago**, the “Gender Affairs Division has implemented education campaigns to raise awareness about violence against women (including young girls). Both primary and secondary schools, as well as youth groups throughout the country participated in *The Youth Data Quest 2000* project. Students were asked to do research papers on the topic of violence (including domestic violence, bullying in schools and sexual violence) and to make recommendations for solving the problem. In addition, they were required to use an artistic medium such as a drama, skit or monologue to depict the problem” (Country Report, 2003: 106).

### 3) PROTECTION

#### 3.1) Legal Framework

##### 3.1.1) International Legislation

The following chart shows the ratification or accession(a) status of various international instruments related to sexual exploitation, trafficking in and smuggling of children, adolescents and women by CARICOM Member States.<sup>14</sup>

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<sup>14</sup> Sources (consulted on 26/09/17):

International Criminal Court:

<[https://asp.icc-cpi.int/en\\_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx#B](https://asp.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx#B)>

International Labour Organization:

<[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:312327](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312327)>

Organization of American States:

<[http://www.oas.org/dil/treaties\\_signatories\\_ratifications\\_member\\_states.htm](http://www.oas.org/dil/treaties_signatories_ratifications_member_states.htm)>

United Nations Office of the Commissioner for Human Rights:

<<http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>>

United Nations Office on Drugs and Crimes:

<<http://www.unodc.org/unodc/en/treaties/index.html?ref=menuseid>>

	Convention on the Rights of the Child 20/11/1989	Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography 25/05/2000	Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour 17/06/1999	Inter-American Convention on International Traffic in Minors 18/03/94	Convention on the Elimination of All Forms of Discrimination against Women 18/12/1979	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women 6/10/1999	Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, "Convention of Belem do Pará" 9/6/1994	United Nations Convention against Transnational Organized Crime 15/11/2000	Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, the "Palermo Protocol" 15/11/2000	The Rome Statute 17/7/1998
<b>Antigua and Barbuda</b>	05/10/1993	30/04/2002	16/09/2002	-	01/08/1989 a	05/06/2006 a	12/08/1998	24/07/2002	17/02/2010	18/06/2001
<b>Bahamas</b>	20/02/1991	28/09/2015 a	14/06/2001	-	06/10/1993 a	-	03/05/1995	26/09/2008	26/09/2008	*
<b>Barbados</b>	09/10/1990	-	23/10/2000	-	16/10/1980	-	08/02/1995	11/11/2014	11/11/2014	10/12/2002
<b>Belize</b>	02/05/1990	01/12/2003	06/03/2000	11/06/1997	16/05/1990	09/12/2002 a	25/11/1996	26/09/2003 a	26/09/2003 a	05/04/2000
<b>Dominica</b>	13/03/1991	20/09/2002 a	04/01/2001	-	15/09/1980	-	30/06/1995	17/02/2013 a	17/05/2013 a	12/02/2001
<b>Grenada</b>	05/11/1990	06/02/2012 a	14/05/2003	-	30/08/1990	-	29/11/2000	21/05/2004 a	21/05/2004 a	19/05/2011
<b>Guyana</b>	14/01/1991	30/07/2010 a	15/01/2001	-	17/07/1980	-	08/01/1996	14/09/2004 a	14/09/2004 a	24/09/2004
<b>Haiti</b>	08/06/1995	09/09/2014	19/07/2007	-	20/07/1981	-	07/04/1997	19/04/2011	19/04/2011	*
<b>Jamaica</b>	14/05/1991	26/08/2012	13/10/2003	-	19/10/1984	-	11/11/2005	29/09/2003	29/09/2003	*
<b>Saint Kitts and Nevis</b>	24/07/1990	-	12/10/2000	-	25/04/1985 a	20/01/2006 a	17/03/1995	21/05/2004	21/05/2004 a	22/08/2006
<b>Saint Lucia</b>	16/06/1993	08/10/2013	06/12/2000	-	08/10/1982 a	-	08/03/1995	16/07/2013	16/07/2013 a	18/08/2010
<b>Saint Vincent and the Grenadines</b>	26/10/1993	15/09/2005 a	04/12/2001	-	04/08/1981 a	-	23/05/1996	29/10/2010	29/10/2010	03/12/2002
<b>Suriname</b>	01/03/1993	18/05/2012	12/04/2006	-	01/03/1993 a	-	19/02/2002	25/05/2007 a	25/05/2007 a	15/07/2008
<b>Trinidad and Tobago</b>	05/12/1991	-	23/04/2003	-	12/01/1990	-	04/01/1996	06/11/2007	06/11/2007	06/04/1999

(-) States that have neither signed nor ratified the Treaty indicated in the heading.

(\*) Signed without ratification, adoption or accession.

### 3.1.2) Internal Legislation

Information of two types is included under this heading. First, a chart providing a synthesis of the legal provisions of each CARICOM member State regarding minimum ages for: majority, employment, marriage and sexual consent, in the understanding that these definitions may have an impact on the way we conceive and conceptualize the problems of sexual exploitation, smuggling and trafficking.

Secondly, there is a list for each State of the principal laws relating to sexual exploitation, smuggling of and trafficking in children and adolescents, or that contain provisions concerning these problems, on which the States report to the Committee. Specific information is added when available.<sup>15</sup>

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<sup>15</sup> We should point out that we are not attempting to provide an exhaustive analysis of the legislation (which could constitute a separate study and report), but rather an informative presentation.



STATE	DEFINITION OF CHILD	MINIMUM AGE OF EMPLOYMENT	MINIMUM AGE OF MARRIAGE	AGE OF SEXUAL CONSENT
<b>Antigua and Barbuda</b>	A person under the age of 18 (Childcare and Protection Act, 2003).	14 years, except in a family business, part-time and out of school hours. No full-time employment is allowed below the age of 16. Restrictions to persons younger than 18 working during school hours or at night (Labour Code, 1975). (Committee's Concluding Observations to Antigua and Barbuda, 2017).	16 years, with the consent of one of the parents.	Girls: 14 years Boys: 16 years (Sexual Offences Act, 1995).
<b>Bahamas</b>	A person under the age of 18 (Minors Act, 1976).	14 years (Employment of Children (Prohibition) Act, 1939).	15 years, with the consent of a parent or guardian. At the request of either party, the Supreme Court may authorize the marriage of persons under 15 but over 13 years (Marriage Act, 1908).	16 years (Sexual Offences and Domestic Violence Act).
<b>Barbados</b>	A person under the age of 18 (Child Care Board Act, 1981).	16 years, both part-time and full-time. "[...] does not establish a clear minimum age for children's work and does not prohibit the involvement of children in hazardous work" (Committee's Concluding Observations to Barbados, 2017 10).	16 years, with the consent of a parent or guardian (Marriage Act).	16 years (Offences against the Person Act and Sexual Offences Act)

<b>Belize</b>	A person under the age of 18, "Subject to any other law to the contrary" (Families and Children Act).	12 years, part-time work. 14 years, full-time work, or hazardous work (Labour Act).	14 years, with the consent of a parent (Marriage Act).	16 years, only for girls (Criminal Code).
<b>Dominica</b>	A person under the age of 18. The law makes a distinction between: Child - under 14 Young person - from 14 to 18 (Children and Young Person's Act, amended 1970/1995).	12 years, except in light domestic or agricultural work at home requested by parents or guardians (Employment of Children (Prohibition) Act).	16 years, with the consent of a parent or guardian (Marriage Act).	16 years (Sexual Offences Act No. 1 of 1998).
<b>Grenada</b>	The definition of child varies in law; in some cases, under 14 years and in others, under 18. Full age: 21 years.	14 years. Children may not work during school hours nor more than two hours on school days (Employment of Women, Young Persons and Children Act).	For persons under 21 years, parental consent is required.	Girls: 16 years.
<b>Guyana</b>	A person under the age of 18.	15 years, in activities that do not put their health, safety or morals at risk.	16 years, with parental consent or permission from the Chief Justice.	16 years (Criminal Law (Offences) Act No. 16 of 2005).
<b>Haiti</b>	A person under the age of 18 (Civil Code, Haitian Constitution).	14 years (Law N° 13, May 2003).	The situation is unclear. The age is set at 18 years for men and women. Nonetheless, the exception below appears to set this age at 15 for women. "It should be noted, however, that article 133 of the Civil Code provides for an exception in serious circumstances by stating that men under 18 years of age and women under 15 years of age may enter into marriage with a dispensation from the	

			President of the Republic” (Country Report, 2013: 16) <sup>16</sup> .	
<b>Jamaica</b>	A person under the age of 18.	13 years. From 13 to 15 years of age, only in light work, with specific information on conditions and hours. From 15 to 18, no night shifts, no industrial work, or work which may be hazardous or harmful to their health or physical, spiritual or social development.	16 years, with the consent of a parent or guardian.	
<b>Saint Kitts and Nevis</b>	A person under the age of 18.	16 years, both part-time and full-time.	16 years, without the consent of parents or guardians.	16 years
<b>Saint Vincent and the Grenadines</b>	A person under the age of 18 (Age of Majority Act, 1987; Law of Minors Act, 1989).	14 years (Employment of Women, Young Persons and Children Act).	15 years for females and 16 years for males (Marriage Act, 1962).	15 years (established for girls in the Criminal Code). It is an offence for a man to have sexual intercourse with a girl who is under 15. However, there are two categories: intercourse with girls under 13 and intercourse with girls between 13 and 15.
<b>Saint Lucia</b>	“Within the laws of Saint Lucia, there is no one singular, consistent definition of child that is applied across all circumstances” (Country Report, 2004: 11).	16 in the private sector. 18 in the public sector (Country Report, 2014: 12).	16 years, with parental consent.	“While there is a stipulated age of consent for girls with regard to sexual relations, there is not one for boys, which puts them at increased risk of sexual exploitation and abuse”

<sup>16</sup> In addition to being confusing with regard to the minimum age of marriage for women, this exception leads to other significant questions to consider in situations involving abuse and exploitation: does it apply to any adult over 18 years without restriction? To a girl who is not yet 15, without restriction? Are there no restrictions to age differences between males and females?

	<p>The Children and Young Persons Act No. 11 of 1972 defines a child as “a person under the age of sixteen years”, and distinguishes between a child (under 12) and a young person (between 12 and 16). More recent laws (such as the Domestic Violence Act) establish the age of majority at 18.</p>			(Committee’s Concluding Observations, 2013: 9).
<b>Suriname</b>	<p>Full age: 21 years. In 2014, a proposal to amend the Civil Code was being drafted, in order to lower this age to 18 (Country Report, 2014).</p>		15 years for females and 17 years for males (Marriage Act, 2003).	Girls: 14 years.
<b>Trinidad and Tobago</b>	<p>A person under the age of 14. The Children (Amendment) Act, No. 68 of 2000 raises this age to 18. However, by 2006, this law had not yet been adopted (Country Report, 2006).</p>	<p>12 years. From 12 to 14 years in businesses where only family members work. Employment between 12 and 18 is regulated.</p>	<p>12 years for females and 14 for males, with parental consent (Marriage Act). A number of different religious marriages are also recognized, which allow unions at various ages, but in all cases, at higher ages than those set by the State.</p>	<p>16 years for both (under the Sexual Offences Act, No. 27 of 1986 (as amended). This age does not apply if the parties are married.</p>

## Legislation State by State

### ANTIGUA AND BARBUDA

#### **The Trafficking in Persons (Prevention) Act, 2010, amended in 2015.**

Its main purpose is: “to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime, 2000; to combat the trafficking in persons within and across the borders of Antigua and Barbuda; to provide for the offence of trafficking in persons and other offences associated with trafficking in persons; to provide measures to protect and support trafficked persons and for incidental and connected purposes” (Country Report, 2014: 53).

#### **Childcare and Protection Act, 2003**

Expressly mentions sexual exploitation as a form of abuse.

#### **Sexual Offences Act, 1995**

The Act addresses all forms of human sexual exploitation, including children.

- ✓ “Section 16 states that ‘a person who procures a minor under 16 years of age to have sexual intercourse with any person either in Antigua and Barbuda or elsewhere is guilty of an offence and is liable to imprisonment for 15 years’.
- ✓ “[...] it is an offence to detain another for sexual purposes against his or her will in any brothel or other premises” (S. 18).

### BAHAMAS

#### **International Child Abduction Act, 1993**

This legislation was introduced to give effect to the Hague Convention on the Civil Aspects of International Child Abduction of 1980.

- ✓ “Anyone who steals any person under 14 years of age with or without his consent shall be liable to imprisonment for 10 years” (Country Report, 2003: 49).

#### **The Sexual Offences and Domestic Violence Act, 1991**

Safeguards children against sexual abuse and exploitation.

- ✓ It increased penalties with regard to sexual intercourse with a person between 14 and 16 years of age. “Anyone who has unlawful sexual intercourse with a person of or above 14 years of age and under 16 years of age, whether with or without the consent of the person with whom he had unlawful sexual intercourse, is guilty of an offence and liable to imprisonment for life subject to, on a first conviction for the offence, a minimum term of imprisonment of 7 years and, in the case of a second or subsequent conviction for the offence, a minimum term of imprisonment of 14 years” (Country Report, 2003: 48).
- ✓ “[...] makes provision for mandatory reporting of cases of sexual abuse. [...] Any person who, without reasonable excuse, fails to comply with the requirements is guilty of an offence and liable on summary conviction to a fine of \$5,000 or to imprisonment for a term of two years or to both” (Country Report, 2003): 48).

#### **The Children and Young Persons (Administration of Justice) Act, (18 September 1947)**

This provides for the protection of children from all forms of cruelty and exploitation.

## BARBADOS

### **Transnational Organized Crime (Prevention and Control) Act (2010)**

Makes trafficking a criminal offence.

### **Offences Against the Person Act (1994)**

- ✓ Addresses the abduction of women under 21 years with the purpose of carnal knowledge and marriage, imposing penalties ranging from life imprisonment to a minimum sentence of two years' imprisonment (Arts. 44 to 47).

### **Sexual Offences Act (3 February 1992)**

- ✓ Makes sexual intercourse with a person under 14 years a felony and stipulates a maximum penalty of life imprisonment for persons found guilty (Art. 4).
- ✓ It provides for a maximum penalty of ten years when the victim is aged between 14 and 16 (Art. 5).
- ✓ Any person who owns, occupies or controls premises where persons under 16 are induced or allowed to engage in prostitution is committing an offence (Art. 17).
- ✓ It also establishes that hearings should be held in closed session when the plaintiff is a minor (Art. 30).

### **Protection of Children Act (1990)**

"Section 3 of this Act makes it an offence for a person to do any of the following: (a) Take or permit to be taken any indecent photograph of a child; (b) Distribute or show an indecent photograph of a child; (c) Have in his possession indecent photographs of a child whether or not for the purpose of distribution or to be shown to others; (d) Publish or cause to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows indecent photographs of children or intends to do so."

## BELIZE

### **Trafficking in Persons (Prohibition) Act (2003)**

### **Families and Children Act, 1998 and its 1999 amendment.**

This is an Act "to reform and consolidate the law relating to families and children [...]".

- ✓ The Act made the reporting of child abuse in general and sexual abuse in particular, mandatory for doctors and teachers, police personnel and any public officials dealing with children and families. "The penalty for failing to do so – including 'unduly delaying' reporting – is up to \$1000 in fine or six months imprisonment or both" (Country Report, 2002: 47).

### **The Criminal Code (Amendment) Act 1999**

- ✓ Mandates between 12 years and life imprisonment for carnal knowledge of girls under 14 years (Art. 47.1).
- ✓ For carnal knowledge of a girl aged 14 or 15 years, or of girls or women with a severe intellectual incapacity, provided that it is proven that the offender knew of that incapacity, it mandates a period of imprisonment of between five and ten years (Art. 47.2).
- ✓ It regulates sex work and procuring (Art. 49).
- ✓ A conviction for reiterated sexual offences requires, in addition to the prescribed penalty, the undergoing of mandatory counselling, or medical or psychological assessment, and that the offender not move without notifying the authorities (Art. 65).

## DOMINICA

### Children and Young Persons Act (1970, amended in 1995)

#### Sexual Offences Act, No. 1 of 1998

This Act makes provisions relating to sexual crimes, including the abduction, procuring and prostitution of persons.

- ✓ It provides for a maximum of 25 years' imprisonment for any person who has sexual intercourse with any person under the age of 14 years, (Art. 7).
- ✓ It also specifies a penalty of 14 years for attempting to have sex with another person between the ages of 14 and 16 years (Art. 8).
- ✓ "Section 22 states, 'any person who unlawfully takes away or causes to be taken away or detains another person against the will of that other person with intent: (a) To commit or to aid or abet the commission of an offence under this Act; or (b) To marry or to have sexual intercourse with the other person; or (c) To cause the person to marry or to have sexual intercourse with the other person, is guilty of an offence and liable on conviction to imprisonment for 10 years'."

#### The Offences Against the Persons Act

The illicit transfer and non-return (abduction or kidnapping) of children is prohibited under this Act.

- ✓ "(a) Child stealing (sect. 54). A person is liable to be prosecuted who unlawfully removes or detains, by whatever means, a child under 14 years from the possession of any person having the lawful care or charge of the child. This carries a penalty of three years' imprisonment.
- ✓ (b) Abduction (sect. 53). Any person who unlawfully takes, or causes to be taken, any unmarried girl under the age of 16 years out of the possession and against the will of her father and mother, or of any other person having the lawful care or charge of her, is liable to imprisonment for two years. [...]
- ✓ (c) Kidnapping (sect. 65). Any person who without lawful authority forcibly seizes and confines or imprisons any other person within the State, or kidnaps any other with intent, is liable to imprisonment for seven years [...]" Country Report, 2003: 34).

## GRENADA

### Child Protection Act No. 17 of 1998<sup>17</sup>

#### Criminal Code

- ✓ Provides protection for girls against sexual exploitation and abuse, including prostitution (Arts. 182 to 186, 191 to 194 and 206).
- ✓ The abduction (stealing) of a person under the age of 12 is punishable by 10 years' imprisonment (Art 189).
- ✓ It provides for a penalty of 10 years' imprisonment for kidnapping cases (Art. 188). A person is guilty of kidnapping if he or she illegally detains another person and removes them from the country without his or her consent (Art. 202, a)).

<sup>17</sup> The draft bill on the care and adoption of children, proposed under the draft legislative reform of the OECS, attempts to address the shortcomings of this law. When the Committee's recommendations were published in June 2010, these bills had not yet been adopted.

## GUYANA

### **Sexual Offences Act (2010)<sup>18</sup>**

“[...] the new Sexual Offences Bill [...] introduces new or more definitive offences in relation to children, such as grooming, voyeurism, incest, relations of trust, and gender-neutral definitions of all offences” (Country Report, 2010: 93).

### **The Protection of Children Act, No. 17 of 2009**

Provides for the protection of children at risk, those in difficult circumstances and children in general.

### **The Prevention of Crimes Act, No. 11 of 2008**

- ✓ Provides for the mandatory supervision of persons convicted of the following offences against children: domestic violence, sexual abuse, rape, sexual exploitation, pornography, incest, prostitution and kidnapping.

### **The Combating Trafficking in Persons Act, No. 2 of 2005**

- ✓ “Under the Act, trafficking convictions carry sentences ranging from three years to life imprisonment and include confiscation of assets related to trafficking activity” (Country Report, 2010: 93).

### **The Marriage (Amendment) Act 2005**

### **The Criminal Law Offences Act No. 16 2005**

“[...] covers rape, attempted rape, incest (Cap. 8:01 TITLE 7) ‘buggery’ (section 53), abduction of unmarried girls (sections 84-86), detention of females with intent to have carnal knowledge (section 87), while art. 350 of the Act regulates selling, publishing or exhibiting an obscene matter” (Country Report, 2010: 80).

## HAITI

### **Human Smuggling and Trafficking Act (2014)**

### **Decree of 6 July 2005**

Amends the rules on sexual assault, increasing penalties for perpetrators and eliminating discrimination against women in that regard.

- ✓ “[...] if the crime (of sexual assault or rape) was committed against a child aged under 15, the perpetrator is punishable by 15 years’ hard labour” (Art. 3).
- ✓ “Article 4 establishes the penalty of hard labour for life if the perpetrator is a person who has authority over the child.”

<sup>18</sup> At the time of reporting, this was a bill.



## JAMAICA

### Cyber Crimes Act 2010

### Sexual Offences Act 2009

### Child Pornography (Prevention) Act 2009

“The Act applies to the production, possession, importation, exportation and distribution of child pornographic materials with penalties of up to 20 years imprisonment and fines as high as \$500,000” (Country Report, 2011: 11).

### Trafficking in Persons (Prevention, Suppression and Punishment) Act 2007 (amended in 2013)

### Child Care and Protection Act of 1 April 2004

## SAINT KITTS AND NEVIS

### The Probation and Child Welfare Board Act, 1994

### The Offences Against the Person Act

## SAINT LUCIA

### The Counter Trafficking Act of 2010

### The Labour Code of 2006

Seeks to harmonize domestic law with the provisions of ILO Convention No. 138.

### The revised Criminal Code of 2004

- ✓ The Code makes provision for other forms of “sexual connection” such as oral sex (Section 124).
- ✓ It makes it an offence for anyone to have sexual intercourse with a person under the age of 12 (Section 126) and reserves the right to indict anyone who has sex with a child aged 12 to 15 (Section 127).
- ✓ It also makes it mandatory for any person in a position of trust or authority towards a young person (such as police, guardians, teachers, medical practitioners, social workers), who becomes aware of any act of abuse committed against that young person, to make a written report of the case to any police officer or to the Government department responsible for Social Services. A person who without reasonable cause fails to make such report commits an offence and is liable on summary conviction to a fine of one thousand dollars (Section 119).
- ✓ It also criminalizes out of court settlements or ‘arrangements’, which are commonly used to compensate a child’s parents or guardians with cash or goods in kind in exchange for dropping a case of child sexual abuse (Section 146).

### The Children and Young Persons Act, amended in 2001

## SAINT VINCENT AND THE GRENADINES

### Prevention of Trafficking in Persons Act (2011)

### The Law of Minors Act (2011)

### Children (Care and Adoption) Act (2010)<sup>19</sup>

#### Criminal Code

- ✓ The Code provides for life imprisonment for anyone convicted of having sexual intercourse with a girl under the age of 13 (Sec. 124).
- ✓ It provides a penalty of 5 years imprisonment for anyone who has sexual intercourse with a girl between 13 and 15 years (Sec. 125). In the case of males younger than 19, evidence of their believing that the girl was older than 15 years at the time of intercourse, with reasonable grounds for such a belief, is admitted in their defence.

## SURINAME

### Law against Stalking and Harassment (2012)

#### Criminal Code

“Suriname prohibits all forms of human trafficking, internal and cross-border, through a 2006 amendment to its Criminal Code, which prescribes sufficiently stringent penalties of 5 to 20 years imprisonment” (Country Report, 2014: 54).

As a result of amendments introduced in 2009, the use of children in pornography and child prostitution is now explicitly penalized (Country Report, 2014: 7).

- ✓ “Intercourse with children under the age of 12 is punishable with a maximum of 15 years’ imprisonment and a maximum fine of SRD 100,000.”
- ✓ “Intercourse with adolescents (over age 12 but under age 16) outside of marriage, is punishable with a maximum of 12 years’ imprisonment and a maximum fine of SRD 100,000.”
- ✓ “Sexual assault is punishable with a maximum 12 year sentence.”
- ✓ The maximum penalty for child prostitution is six years’ imprisonment and a maximum fine of about 35,714 US dollars.
- ✓ The maximum penalty for the use of children in pornography is six years’ imprisonment and a fine of up to 17,857 US dollars.

## TRINIDAD AND TOBAGO

### The Obscene Publications and Child Pornography Bill, 2001<sup>20</sup>

It prohibits the possession of pornographic material in which children are used, including content disseminated over the Internet.

### The Sexual Offences Act, 1986, amended by Act No.31 of 2000

- ✓ “Where a person has sexual intercourse with a female person who is not his wife and who is under the age of fourteen years, he is guilty of an offence, whether or not the female person consented to the intercourse and whether or not at the time of the intercourse he believed her

<sup>19</sup> Enactment pending at the time of writing this Country Report.

<sup>20</sup> This draft legislation was under review when the Committee published its Concluding Observations.

- to be fourteen years of age or more, and is liable on conviction to imprisonment for life” (Art. 6.1).
- ✓ “Where a male person has sexual intercourse with a female person who is not his wife with her consent and who has attained the age of fourteen years but has not attained the age of sixteen years, he is guilty of an offence and is liable on conviction to imprisonment for twelve years for a first offence and to imprisonment for fifteen years for a subsequent offence” (Art. 7.1). “A male person is not guilty of an offence “[...] (a) if he honestly believed that the female person was sixteen years of age or more; or (b) if the male person is not more than three years older than the female person and the court is of the opinion that the evidence discloses that as between the male person and the female person, the male person is not wholly or chiefly to blame” (Art. 7.2).
  - ✓ “Where a female adult has sexual intercourse with a male person who is not her husband and who is under the age of sixteen years, she is guilty of an offence, whether or not the male person consented to the intercourse, and is liable on conviction to imprisonment for five years” (Art. 8.1). “A female adult is not guilty of an offence [...] (a) if she honestly believed that the male person was sixteen years of age or more; or (b) if the female adult is not more than three years older than the male person and the court is of the opinion that the evidence discloses that as between the female adult and the male person, the female adult is not wholly or chiefly to blame” (Art. 8.2).
  - ✓ The Sexual Offences Act prohibits promoting or facilitating sexual intercourse with minors under the age of sixteen and the prostitution of others in general: “A person who: (a) procures a minor under sixteen years of age to have sexual intercourse with any person either in Trinidad and Tobago or elsewhere, is guilty of an offence and is liable on conviction to imprisonment for fifteen years. [...] (b) procures another for prostitution, whether or not the person procured is already a prostitute, either in Trinidad and Tobago or elsewhere, is guilty of an offence and is liable on conviction to imprisonment for fifteen years” (Art. 17).
  - ✓ Liability of owners and occupiers of premises used for the exploitation of children and adolescents: “1) A person who- (a) being the owner, occupier or manager of premises; or (b) having control of premises or assisting in the management or control of premises permits a minor under the age of sixteen years of age to resort to or to be in or upon premises for the purpose of having sexual intercourse with any person is guilty of an offence and is liable on conviction to imprisonment for ten years” (Art. 21).
  - ✓ “The Act provides for the mandatory reporting of suspected sexual offences to the police by parents, guardians, doctors, nurses and persons having temporary custody, care or control of a minor, including teachers.” “A breach of this section is punishable by a fine of fifteen thousand dollars (\$15,000) or imprisonment for a term of seven years” (Art. 31).

#### **The Children Act, amended by Act No. 19 of 1994**

- ✓ “If any person having the custody, charge or care of a child or young person under the age of sixteen years causes or encourages the seduction or prostitution or unlawful carnal knowledge of that child or young person, he is liable, on conviction on indictment, to imprisonment for five years” (Art. 8.1).
- ✓ “Where it is shown to the satisfaction of a Magistrate, on the complaint of any person, that a child or young person under the age of eighteen years is, with the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution or of being unlawfully carnally known or living a life of prostitution, the Magistrate may adjudge her parent or guardian to enter into a recognisance to exercise due care and supervision in respect of the child or young person” (Art. 9.1).

### 3.2) The administration of justice: reporting mechanisms, protection measures, victim participation in court proceedings.

For legal action to be initiated in **Antigua and Barbuda**, situations involving violence against children (as well as other violations of rights) must be brought to the attention of the police or a State social worker.

In the opinion of the State, the establishment of a Sexual Offences Unit within the Royal Police Force of Antigua and Barbuda constituted a significant advance in relation to measures dealing with children who have been victims of sexual abuse. As mentioned above, the unit's aim "is to give assistance in the management of investigations and the collection of forensic and other evidence to assist in the prosecution of the cases" and, in practice, contributing to improving the conviction rate of sexual offences cases (Country Report, 2014: 27). In addition, "[...] officers at the Unit also work closely with the Directorate of Gender Affairs in providing support and assistance to victims of sexual offences and to ensure that all necessary care and counselling are offered" (Country Report, 2014: 28).

Under the Minors Act, if the situation reported is confirmed, the agent may confine the child in a protection shelter until brought before a Juvenile Court. However, there were no official shelters allocated to this purpose in 2004, for which reason most children were held at the police station.<sup>21</sup>

A child may be summoned to testify before a court as from the age of 8 (Committee's Concluding Observations to Antigua and Barbuda, 2004).

In **Bahamas**, it is the Department of Social Services that receives reports and investigates all types of child abuse, in close collaboration with the police and hospitals. The Sexual Offences and Domestic Violence Act "[...] makes provision for mandatory reporting of cases of sexual abuse. These matters are to be reported by doctors, nurses, teachers, police officers, social workers and any citizen with knowledge of an offence. Any person who, without reasonable excuse, fails to comply with the requirements is guilty of an offence and liable on summary conviction to a fine of \$5,000 or to imprisonment for a term of two years or to both" (Country Report, 2003: 48).

With regard to the participation of children in judicial proceedings, "There is no specified age at which a minor becomes a competent voluntary witness in court proceedings under the Evidence Act, 1904. All persons are eligible to testify unless the court considers that they are incapable of understanding the questions put to them, or of giving rational

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<sup>21</sup> Considering that 15 years have elapsed, this information may be outdated. The State's most recent report, however, contains no information on this aspect.

answers to those questions, or of understanding the nature of an oath because of their tender age” (Country Report, 2003: 8).

In **Barbados**, cases of alleged abuse of children (among other forms of ill-treatment) are reported to the Child Care Board, which works closely with the Police Department. Reports can be made by telephone or personally and may be made by the victims themselves, their families, schools, doctors, the police, or individuals who have knowledge of the act. The anonymity of the complainant is guaranteed. However, reporting is not mandatory (Country Report, 1996).<sup>22</sup>

Counselling is provided to the child throughout the investigation and, if necessary, he or she is subjected to psychological treatment. If the child is at risk, the Board may remove the child to a safe place (such as one of the Board’s own children’s homes).

“Several factors hinder the prosecution of the alleged perpetrators of the offence of sexual abuse against children. These factors include discretion, refusal to make a statement and accepting monetary compensation” (Country Report, 1996: 54).

In **Belize**, situations involving child abuse must be reported to the police, or to the Department of Human Services of the Ministry of Human Development. The Families and Children Act of 1999 made the reporting of child abuse in general and sexual abuse in particular, mandatory for doctors and teachers, police personnel and any public officials dealing with children and families. “The penalty for failing to do so – including ‘unduly delaying’ reporting – is up to \$1000 in fine or six months imprisonment or both” (Country Report, 2003: 47).

The institution receiving the complaint must investigate promptly and notify the Family Court in Belize City or magistrates courts in the districts, within 48 hours. “[T]he police are to institute criminal proceedings” (Country Report, 2003: 47).

The courts are responsible for setting up measures of care and protection for children and adolescents. The Families and Children Act provides that the court require a written social inquiry report from the Family Services Division before making a supervision or care order. “The officer charged with preparing that report shall interview the child if ‘considered by the Department to be of sufficient age and understanding’” (Country Report, 2003).

There is no specific provision regarding the minimum age to give evidence in civil or criminal cases, but it is “[...] normally dependent upon the court’s determination of the child’s capacity, maturity and understanding” (Country Report, 2003: 17). In addition, “If the court considers that a situation during proceedings is proving stressful or confrontational to the

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<sup>22</sup> Idem.

child, then the court seeks the view of a psychologist as to whether or not it is in the child's interest to testify" (Country Report, 2003: 25).

The Family Court has taken steps to be more considerate of the interests of children, such as changing location, improving advisory services and interaction with families, and setting up a children's play area. "However, the Family Court only has a specific presence in Belize City, operating within the magistrates courts in the districts [...]. The district-based magistrates courts continue to fall short of being sufficiently child-friendly and adequately trained in or sensitive to the provisions of the CRC" (Country Report, 2003: 25).

In **Dominica**, reports of child abuse are received at the Welfare Division. Cases of sexual abuse reported to the Division are referred to the police for investigation, although work continues in coordination. "If the child is found to be at risk, appropriate action, including a court order, is obtained to house the child in a safe family environment. This often results in the fostering of the child" (Country Report, 2003: 35).

Juvenile Courts are included under the jurisdiction of the Magistrates Courts (one of the three judicial structure levels in the country), but there are special provisions for their establishment and proceedings, as determined in the Children and Young Persons Act (chap. 37:50). "In a juvenile court no person other than the members and officers of the court and the parties to the case, their solicitors and counsel and other persons directly concerned in the case shall, except by leave of the court, be allowed to attend" (Art. 13, par. 1). The Act also states that "Where in any proceedings against any person for any offence, any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given upon oath, if in the opinion of the court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth" (Art. 28, par. 1). Despite this legal provision, the State recognizes that it lacks qualified human resources to implement this participation, and, in practice, children's opinions may not be consulted or are ignored (Country Report, 2003: 19, 22).

Regarding sexual offences specifically, the Sexual Offences Act, No. 1 of 1998 provides for trials to be held behind closed doors in the case of underage victims (Art. 27), that parents or guardians may be required to testify (Art. 29) and that video footage may be allowed as evidence (Art. 33). The compulsory attendance of parents or guardians seeks to prevent adults from withholding information, especially in cases where the alleged perpetrator is a member of or is close to the immediate family (Country Report, 2003).

In **Grenada**, matters pertaining to child protection are addressed by existing magistrates courts, which meet on specially appointed days to deal with matters of family law. "Within those sessions, matters involving children are addressed with some changes from the setting in a normal courtroom, primarily that the proceedings can be in camera without the

public being present. This arrangement however does not provide the full range of supports normally associated with a Family Court including more child-friendly settings and methods and the availability of counselling and social service support and follow-up” (Country Report, 2008: 9).

As for the attendance of children in court, the Evidence Act states that “anyone below the age of 14 [should be subjected] to what is called a *voir dire* (a case within a case), to be conducted by the judge, to determine whether or not the child is competent enough to give evidence.” “Failure to conduct a *voir dire* before children under 14 give evidence is sufficient ground on which an appeal can be made, and a case dismissed” (Country Report, 2008).

In **Guyana**, the Evidence (Amendment) Act No. 19 of 2008 “further protects witnesses, including the victim witness, by allowing for the taking of oral evidence and making of submissions via audio visual link” (Country Report, 2010: 7). However, the State recognizes that in most cases where a matter before the court touches sensitive issues, witnesses, including the victim witness, refuse to attend, thereby slowing the pace of the trial and adding to the backlog of cases.

In **Haiti**, in accordance with the provisions of the Act of 7 May 2003 on the prohibition and elimination of all forms of abuse, violence, ill-treatment or inhumane treatment against children (May 2003), the Ministry of Social Affairs and Labour may refer “to the competent judicial authority any application by any child against any individual identified as the perpetrator or joint perpetrator of or accessory to acts of violence or ill-treatment against that child”. In addition, a “reporting mechanism has been introduced for vulnerable children, including child victims of sexual abuse or exploitation. The mechanism uses the Social Welfare and Research Institute’s call centre and other free hotlines” (Country Report, 2013).

In **Jamaica**, the Child Care and Protection Act “has created a legal obligation which makes it mandatory to report knowledge or suspicion that a child has been, is being or is likely to be abandoned, neglected, physically or sexually ill-treated or otherwise in need of care and protection [...]. This legal obligation while extending to every member of society is particularly emphasized for a range of ‘prescribed persons’ [...]” such as health professionals, school or childcare staff, social workers or any “persons who as a result of their occupation work with children regularly” (Country Report, 2011).

These reports should be made to the Office of the Children’s Registry, which is “responsible for receiving these reports and recording, assessing and referring them to the Child Development Agency and/or the Office of the Children’s Advocate or to the Police through its sexual offences arm, the Centre for the Investigation of Sexual Offences and Child Abuse (CISOCA) for action” (Country Report, 2011).



The Office of the Children’s Advocate provides legal representation in court for all children, receives reports submitted by children or on their behalf and conducts the relevant investigations. For its part, in order to “reduce the fear of giving evidence and the associated trauma experienced by children CISOCA has been recently ergonomically redesigned to become more child-friendly. Officers have been trained in the use of modern technology to facilitate the use of video evidence in keeping with the new Evidence Act” (Country Report, 2011: 50).

Children’s Courts exist as separate legal entities for children to be brought to justice, either because they are in need of care and protection or because they are in conflict with the law (Country Report, 2011).

Children are allowed to give evidence in court. Under the Act mentioned above, when a child is under the age of 14 years, it is up to “the court to determine whether or not young children understand the nature of the oath, have sufficient intelligence to justify reception of the evidence and understand what it means to tell the truth. This evidence though received will not convict by itself, unless other material evidence corroborates it” (Country Report, 2011: 39). “In addition the Act outlines the right of children to be informed in court proceedings in child-friendly language and where necessary through the use of an interpreter” (Country Report, 2011).

For its part, the Ministry of Justice has created a “hotline [...] to report cases of alleged human trafficking” (Country Report, 2011) 129).

Finally, it should be noted that there is a Sex Offender Registry in the country (Committee’s Concluding Observations to Jamaica, 2015: 9).

In **Saint Lucia**, it is the Division of Human Services and Family Affairs that receives reports of any kind of abuse towards children.

According to the Evidence Act, any child 12 years old and over may give sworn testimony. Children under 12 years cannot be sworn, but if the child states: “I promise to tell the truth” that child’s testimony may be taken. “A child under the age of 12 years who is a complainant in a sexual offence case may be afforded treatment as a vulnerable witness. In such cases according to the Evidence Act the child may be allowed to testify while being screened off from the defendant; or testify from a place outside the court room either in island or elsewhere by means of technology” (Country Report, 2004).

In **Suriname**, “the Youth Police is the only government body with the authority to investigate complaints submitted by children” (Country Report, 2014: 12).



On the issue of trafficking in persons specifically, in “June 2010, a 24-hour hotline was established for citizens and/or potential victims to report human trafficking, within the Ministry of Justice and Police, in close cooperation with the Trafficking in Persons Unit and the United States Embassy in Suriname”. For its part, the Trafficking in Persons Unit conducts proactive investigations through regular inspections of brothels (Country Report, 2014).

In **Trinidad and Tobago**, it is the Police that receives allegations of sexual offences against children and youth. The Sexual Offences (Amendment) Act, No. 31 of 2000 provides for mandatory reporting, in the following terms: “Any person who- (a) is the parent or guardian of a minor; (b) has the actual custody, charge or control of a minor; (c) has temporary custody care, charge or control of a minor for a special purpose, as his attendant, employer or teacher, or in any other capacity; or (d) is a medical practitioner, or a registered nurse or midwife, and has performed a medical examination in respect of a minor, and who has reasonable grounds for believing that a sexual offence has been committed in respect of that minor, shall report the grounds for his belief to a police officer as soon as reasonably practicable” (S. 31.1). “Any person who without reasonable excuse fails to comply with the requirements of subsection (1), is guilty of an offence and is liable on summary conviction to a fine of fifteen thousand dollars or to imprisonment for a term of seven years or to both such fine and imprisonment” (S. 31.2) (Country Report, 2003: 233).

There is no minimum age established by law at which a child may participate in administrative and court proceedings. However, Section 18 of The Children (Amendment) Act, No. 68 of 2000 “has been amended so that where on the trial on indictment of a person for an offence of cruelty or any offence under the Schedule, the court is satisfied (by the evidence of a medical practitioner) that the attendance before the court of any child would involve serious danger to the life or physical, mental or psychological health of the child, any deposition of the child shall be admissible in evidence, if it purports to be signed by the Magistrate before whom it is taken” (Country Report, 2003: 10).

#### **4) CARE AND RESTITUTION**

With a few exceptions (reflected in the most recent reports), practically none of the reports made by CARICOM Member States contain specific information on care and restitution of rights for child victims of sexual exploitation. Available information refers to institutional responsibilities and resources used in cases of ill-treatment, neglect or violation of rights in general, or in some cases that involve violence and sexual abuse, all of which may lead to separating children from their families. Neither do the types of reports submitted (not specifically on the OPSC) contain details of the intervention methodologies implemented.

In **Antigua and Barbuda** there are two shelters for girls separated from their families for reasons of personal safety or lack of care: The Salvation Army's *Sunshine Home for Girls* and the *Good Shepherd Home*, of the St. Vincent de Paul Society of the Roman Catholic Church. There are no safe houses for boys. As a result, they are placed in the State institution for children in conflict with the law, the *Boys' Training School* (Country Report, 2003).

Although ten years elapsed between its first report and the next, the State regrets that this deficiency persists, refers specifically to the issues of exploitation and trafficking and proposes an alternative solution: "The State party is also cognizant of the fact that the existing facilities to care for children who have been abused or exploited are currently inadequate. Child victims of abuse need to be placed in a safe environment where they can receive adequate care and rehabilitation. This is true for both sexes. Thus the draft National Child Protection Policy has made a policy statement declaring that: *We shall consider establishing two small, therapeutic units, one for girls and one for boys. These will be short-term units, with a therapeutic regime for children who have been trafficked, abused or exploited or who are out of control (i.e. present a real danger to themselves or others). These units will be staffed by highly skilled and experienced social workers.* (Ministry of Social Transformation, 2013:24)" (Country Report, 2014: 54). However, by 2017, when the Committee issued its Observations, this had not yet been resolved.

In **Bahamas**, the following institutions provide counselling and treatment for victims of sexual abuse: "The Department of Social Services, the Crisis Centre, the Child and Adolescent Unit of the Sandilands Rehabilitation Centre, and the Adolescent Health Department [...]" (Country Report, 2003: 48).

In **Barbados**, the Child Care Board is the body in charge of caring for children who have been deprived of their family environment in their best interest. Alternative care options are, in order of priority: other family members, either of the immediate or the extended family; family friends; foster homes or families; residential care institutions – generally known as children's homes – run by the Board (Country Report, 2014).

In **Belize**, responsibility for the temporary or permanent care of children who have been removed from their family environment is vested in the Department of Human Services, "through the coordination of foster care, assessment of adoption applications, and administration of institutions under the Social Service Agencies Act and the Certified Institutions (Children's Reformation) Act" (Country Report, 2003: 37).

In **Dominica**, there are no official institutional care homes charged with caring for and protecting children and adolescents who require alternative care; conversely, priority is given to foster care, although there is difficulty in obtaining such care. There is only one

care centre to provide temporary accommodation for children until a foster home can be found, which has ten places and is run by a non-governmental organization.

“The aim of the Child Abuse Prevention Programme [of the Welfare Division, within the Ministry of Community Development and Gender Affairs] is the prevention of abuse of children and the provision of therapeutic counselling, particularly to those children who have fallen victim to sexual abuse. Counselling is also offered to family members in order to help alleviate the hurt and trauma occasioned by the abuse of a member of the household” (Country Report, 2003: 34).

In **Grenada**, a number of government departments, as well as non-governmental organizations dedicated to childhood issues, provide services to children who have been abused or neglected and who need alternative care and recovery assistance; including: the National Coalition on the Rights of the Child, the Legal Aid and Counselling Clinic, the Department of Social Security and the local chapter of NCH [National Children’s Home] Action for Children (Country Report, 1997: 21). There is a care protocol for cases of child abuse, developed by the National Coalition and ratified by the Cabinet.

In **Guyana**, the Childcare and Protection Agency, under the Ministry of Labour, Human Services and Social Security, provides “services to victims of sexual violence in the form of a ‘One Stop Crisis Centre’ in order to avoid victims of sexual violence having to locate five or six unrelated service providers to attend to their legal, medical welfare, and psychological needs” (Country Report, 2010).

The Agency works closely with the Trafficking in Persons Unit under the same Ministry, which also has the responsibility (among others) to provide financial and psychosocial care and assistance to victims, for their social reintegration or repatriation in case of foreigners (in coordination with IOM).

In **Haiti**, the National Plan for the Protection of Haitian Children in Difficult or Vulnerable Situations, of 2007, includes two measures related to the care of child and adolescent victims of sexual abuse or exploitation: on the one hand, the “National Programme for the Rehabilitation of Child Victims of Violence and Sexual Abuse”, and on the other, “to assist women’s institutions that support girls who are victims of exploitation, violence and sexual abuse, with a view to improving the coverage and effectiveness of support services and building the operational capacity of the Social Welfare and Research Institute with regard to the protection of child victims of sexual abuse” (Country Report, 2013: 25).

In **Jamaica**, “the Ministry of Justice, in collaboration with a multi-sectoral team, has put systems in place to support housing and psycho-social services for children and women who have been victims of trafficking and apply a holistic approach to facilitate their reintegration into the wider society” (Country Report, 2011: 129). “As specialized shelters for

trafficking victims remain largely unavailable, law enforcement and social service agencies refer victims to safe houses for abuse victims that are run by NGOs” (Country Report, 2011: 130).

The Ministry also has a Victim Support Unit, which “provides advocacy, court support, crisis intervention, advice and counselling services to individuals against whom crimes and civil offences have been committed”. The Unit was the first of its kind in the Caribbean when it was established in 1998, although it has now lost some of its functions with the creation of the Office of the Children’s Advocate.

There are two residential care centres in **Saint Lucia**: the *Upton Gardens Girls Centre* and *New Beginnings*, a transit home for children under 18 victims of neglect or serious abuse, which includes a therapeutic centre (Country Report, 2011: 11).

The State reports that there have been some improvements in programmes for psychological and physical recovery and social reintegration of victims of sexual abuse. It refers, in particular, to a pilot programme entitled “Support Group Programme for Sexually Abused Children”, which it is attempting to implement in the island’s schools (Country Report, 2011: 21).

In **Saint Vincent and the Grenadines**, the Family Services Division lacks its own centre for girls, boys or teenagers who are victims of abuse and neglect and require alternative care. The available options are foster families, adoption or admission to other institutions such as the Saint Benedict Children’s Hospital, or the Liberty Lodge Training Centre (under the Ministry of Education). These facilities are insufficient to cater to the number of children who require them, so many situations remain unaddressed (Country Report, 200: 38).

**Suriname** has Victim Care and Victim Support units within the Ministry of Justice and Police. Victim Care Centres have also been created, “to provide care and support to all victims of domestic violence, criminal offences and sexual offences [...]. The services consist of judicial aid, social aid and medical aid in collaboration with other relevant institutions” (Country Report, 2014: 31). The Child Foundation, which receives a State subsidy, is the only shelter available (providing 40 places) for children who have been sexually or physically abused and is under constant threat of closure due to lack of funds.

A Foundation against Human Trafficking and Smuggling and related Traffic (2007) was established by the Government with the primary purpose of assisting victims.

In **Trinidad and Tobago**, care options for children who are separated from their family of origin are, in order of priority: another member of the family or other fit person, adoption, foster home and protection institutions.

Protection institutions are legally bound to provide shelter, clothing and food to children in need of care or youthful offenders. The Children Act certified the following institutions in this category: St. Michael's School for Boys (over ten), St. Jude's Home for Girls (over ten), St. Mary's Children Home and St. Dominic's Children Home, for children of both sexes (usually under the age of ten) (Country Report, 2003).

"The Children's Authority Act, No. 64 of 2000 allows the Authority to assume temporary care and control of children removed in circumstances described in S.22 of the Act. Section 11 of the Act provides that for the effective management of its duties the Authority shall have inter alia a Technical Unit. The Technical Unit shall comprise an Intake Centre and a Reception Centre. The Intake Centre shall be responsible for inter alia 'receiving children who are to remain in the care of the Authority'. The Reception Centre 'shall be responsible for the temporary care of children received by the Authority'. The Act in S.14 (4) provides that the Reception Centre shall be staffed with qualified social workers, a child psychologist, medical and other qualified personnel, including a child psychiatrist. A child shall not remain in the Reception Centre for a period exceeding six weeks" (Country Report, 2003: 203).

Finally, we should note the existence of a State economic assistance system for victims of certain crimes, including offences under the Sexual Offences Act, which is provided for under the Criminal Injuries Compensation Act, No. 21 of 1999.

## 5) PARTICIPATION

References to child participation in the reports submitted by CARICOM member States are scant and diverse. When information is provided, it refers, in some cases, to the participation of children in court proceedings involving them; in others, to their participation in public policy, varying as to form and continuity; and in still others, to specific actions/activities whose purpose is, in fact, to promote the participation of this sector of the population. The cases of Guyana and Jamaica are described below as examples.

In **Guyana**, children from the country's ten administrative regions participated in consultations during the process of drafting the National Framework for orphans and vulnerable children. In addition, as an ongoing activity that aims to promote youth participation in promoting and defending their rights, in 2007, *Youth Media Guyana* was launched, an organization that "aims to enable young people to express themselves in various ways and provide a platform to have their voices heard, particularly through a monthly television newscast, radio and print media" (Country Report, 2010: 36).

"**Jamaica** now has a strong legal framework upon which to build a culture of child participation. This remains a challenge however, as traditional and cultural practices do not

readily accommodate and recognise the views of the child in homes, schools and communities. Despite this, agencies of the Government, who are directly involved in service delivery for children, have embraced the principle. For example, both the Child Development Agency and the Office of the Children's Advocate have integrated children's consultations in their strategic planning and programme implementation activities" (Country Report, 2011: 40). In fact, there is a Children's Panel acting as an advisory group at the Child Development Agency.

## CONCLUSIONS AND RECOMMENDATIONS

### General Considerations

As noted at the start, the information in this report was obtained from the **Reports that the States submit to the Committee on the Rights of the Child** in compliance with the provisions of Article 44 of the Convention on the Rights of the Child, and the **Concluding Observations that the Committee provides in response**. These sources make it possible to gain access to information from all of the States, in addition to being the “official version” of this information. However, their weakness is that the reports are often outdated. Consequently, **we should point out again that there may have been developments that have not been reported or negative issues reported that have already been corrected.**

As noted, none of the States included in this study has yet submitted its initial report on its compliance with the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography and, as a result, they do not report specifically on these issues, other than in the context of compliance with the Convention overall.

Nonetheless, we have observed that **the States in the region are targeting the problem of trafficking in persons**: the institutions we have mentioned, with responsibilities in these specific issues, are addressing it; all identified coordination bodies are focusing on it; public policies (when specifically related to the issue and not merely generic childhood policies) refer to it.

Belize, Saint Lucia and Trinidad and Tobago are the only States that include in their reports specific references to the issue of child sexual exploitation as such, by describing the problem and its modalities, the challenges they face in addressing it and the steps that should be taken.

*Belize: “[...] one matter that is difficult to identify as a possible trend but which needs urgent attention is of increased reports that girls in financial difficulty are ‘consenting’ to sexual abuse in order to secure money, clothing and goods to enable them to continue with their schooling” (Country Report, 2003: 50); “There was also a high reported incidence of young women workers<sup>23</sup> whose ‘boyfriend’ is much older and financially assists them. These men often tend to be family friends, and in a reportedly largely consensual friendship, although the original relationship usually stemmed from the female’s professed financial hardship” (Country Report, 2003: 99); “Since the Initial Report, a new dimension has been added to the commercial sexual*

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<sup>23</sup> The report refers to a survey and study conducted with UNICEF funding in 2000 on “Sex Workers in Belize”, which includes girls from the age of 12 in that category. We should point out that it is mistaken to include girls in this class, inasmuch as we cannot refer to them as ‘professionals’ engaging in a profession, but as exploitation and victims.



exploitation of children, in the form of internet child pornography” (Country Report, 2003: 99); “There is an urgent need – due to the threats to Belize’s sexual health efforts, its emphasis on the foreign tourist industry, the need to ensure adequate protection to sex workers and, most importantly, the need to safeguard girls from sexual exploitation – for the Government of Belize to examine measures to more stringently regulate the sex work industry. [...] including examining the adequacy and enforcement of penalties for operators engaging minors in commercial sex work, and those found trafficking minors into the industry. As stated, it is also necessary to acknowledge and address the issue of male sex workers, and the vulnerability of boy minors to sexual exploitation” (Country Report, 2003: 100).

Saint Lucia: “Despite the Division of Human Services and Family Affairs having established a central child abuse registry, there is still a widely held consensus that the figures reported do not reflect accurately the true extent of the problem of sexual abuse and exploitation in Saint Lucia. This view is premised upon a critique of the methodology of data collection, as contributing to the difficulty in accessing the exact dimensions of the phenomenon of sexual exploitation of children. To the extent that the data collected does not capture specific information on the incidence of child prostitution, child pornography, or a profile of the consumer, in case recordings, this system of documentation and data collection makes it difficult to bring a profile and visibility to the exact dimensions of the problem” (Country Report, 2004: 60).

Trinidad and Tobago: “The study<sup>24</sup> identified economic hardship and adverse social and domestic circumstances as the contributing factors for the involvement of persons under the age of eighteen years in commercial sexual activity.” “In response to these findings, the Government devised a programme of action that includes the following measures: • The conduct of public awareness programmes on the existence of commercial sexual exploitation in Trinidad and Tobago (in the context of a human rights issue); • The stipulation that advertisements in the tourism industry should not in any way suggest Trinidad and Tobago is a destination for sex tourism; • The sensitization of law enforcement agencies to the seriousness of the phenomena addressed by the survey as criminal activities and accordingly, the imposition of stiffer penalties for these offences; and • More in-depth and expansive research into commercial sexual exploitation of children and the institution of systematic data collection and analysis systems to inform programme formulation in these areas” (Country Report, 2003: 38).

Prior to conducting a status assessment based on the information collected and provided above, we should mention a phenomenon that is present in all of the societies in the region, and which is at the root of this problem (and others): **the tolerance of physical violence (corporal punishment) towards children and youth, both as a “method of education” on**

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<sup>24</sup> Refers to a preliminary study carried out in the country: “Survey into the Nature and Extent of Child Prostitution, Child Pornography and the Sale of Children in Trinidad and Tobago”.



**the part of families and schools, and as a form of punishment and discipline in the judiciary.**

This is proof of the prevailing perception of children and youth as subjects of protection, rather than holders of rights, which is maintained in a clearly unequal cross-generational form of relationship. These aspects are part of the CSEC problem, inasmuch as the absence of affective relations and areas of care and containment, constitutes a factor in children's vulnerability and the "objectification" of the child's body, expressed through violence, enables or even justifies these types of conduct.

Similarly, we should refer to four situations in the region that affect both investment priorities and public policies. They also have an impact on the possibility of acknowledging and generally safeguarding the rights of children and youth, as well as on the emergence of sexual exploitation: natural disasters, economic dependence on tourism, birth registration challenges and migration.

**Natural disasters** themselves do not only divert resources towards the need to address them, but also leave thousands of children in a vulnerable situation when they are separated from their families or displaced.

**Economic dependence on tourism** results in these economies being affected by the global economic recession and, consequently, having to reduce their investment in social issues or directly in children, making children and youth more vulnerable. There is also the risk of several forms of exploitation emerging in this context.

With regard to **birth registration**, several States in the region (Belize, Dominica, Grenada, Guyana, Haiti) have reported to the Committee that they are still facing challenges, both institutional (lack of offices, shortage of staff, great distances) and sociocultural (e.g. in Grenada, births are customarily not registered until children are baptised, or until they enter preschool or primary school). In addition to placing children in vulnerable situations, since their "official inexistence" hampers their access to basic and general protection services, this lack of registration may also facilitate human trafficking and smuggling.

Finally, **migration**, which is generally irregular, and its consequences (people without documentation, difficulty for social services to gain access to these people and vice versa, unaccompanied minors) make children and youth vulnerable and place them at risk of CSE, smuggling and trafficking.

## 1) Coordination and Cooperation

In keeping with the type of reports they are submitting, all of the States mention their child protection bodies in general terms, but when asked about institutions with specific responsibilities in the areas of CSE, trafficking and smuggling, references emerge with increased emphasis to **police departments' special sexual offences or counter-trafficking units** (in the cases of Antigua and Barbuda, Dominica, Jamaica and Suriname) and, to a lesser extent, other types of institutions dedicated, for example, to prevention or the provision of care to victims. In this respect, it is worthwhile to reflect upon the focus – which is, at least initially, institutional – that the States adopt when addressing this issue, where we have observed a **predominantly legal and police-centred approach**.

Nevertheless, we should acknowledge and appreciate the existence of these specialized units, insofar as they allow for more specific interventions, at least within the sphere of the police force.

**With regard to the existence of national policies or plans, the situation in this region is diverse.** Some of the States (Bahamas, Barbados, Dominica, Grenada, Guyana, Saint Lucia and Saint Kitts and Nevis) do not even have general plans or policies relating to children (at least by the years when reports were submitted). Others (Antigua and Barbuda, Haiti, Jamaica and Suriname) do have such policies, which include targets or actions related to child sexual exploitation, smuggling and trafficking. Only Haiti, Jamaica, Saint Vincent and the Grenadines and Suriname have **specific plans, in all cases referring to the problem of human trafficking**.

In this respect, we share and reiterate the recommendation made by the Committee to several States regarding the **need to develop comprehensive policies in order to address the problem of CSEC**, in compliance with the agreements reached at the various World Congresses on the subject. Some examples are:

*“[...] (c) Ensure the development of programmes and policies for the prevention, recovery and social reintegration of child victims, in accordance with the outcome documents of the World Congresses against Commercial Sexual Exploitation of Children” (Committee’s Concluding Observations to Antigua and Barbuda, 2017: 7).*

*“Undertake a comprehensive study on children involved in the commercial sex industry and use the data to design policies and programmes to prevent commercial sexual exploitation of children, including through the development of a National Plan of Action on Commercial Sexual Exploitation of Children, as agreed at the First and Second World Congresses against Commercial Sexual Exploitation of Children [...]” (Committee’s Concluding Observations to Bahamas, 2005: 10).*

*“(d) Ensure that it has programmes and policies for the prevention, recovery and reintegration of child victims in accordance with the outcome documents adopted at*

*the 1996, 2001 and 2008 World Congress against Sexual Exploitation of Children held in Stockholm, Yokohama, Japan, and Rio de Janeiro, Brazil” (Committee’s Concluding Observations to Guyana, 2013: 9).*

*“[...] (e) Ensure the development of programmes and policies for the prevention, recovery and social reintegration of child victims, in accordance with the outcome documents adopted at the World Congresses against Commercial Sexual Exploitation of Children” (Committee’s Concluding Observations to Jamaica, 2015: 9).*

**All existing coordination bodies also focus on the problem of human trafficking.** The sources of information we consulted do not contain any detailed accounts regarding objectives, work methodology or composition.

We found the same lack of information in relation to **interstate coordination**. However, **in view of the importance of such collaboration concerning SEC, trafficking and smuggling, it would be useful to delve further into whether this exists and/or to promote it.**

Finally, we should point out that both **national civil society organizations and international cooperation are essential in all the countries in the region for the implementation of child-related policies and programmes.** While this joint responsibility is desirable and should be fostered, in this region it shows the existence of some **weaknesses on the part of the States when it comes to fulfilling their role in safeguarding rights.**

Civil society organizations perform direct intervention, often associated with the care of the victims of various forms of violence. Given their importance in the area of social protection, we should underscore the Committee’s recommendation to Haiti, which could be extrapolated to all cases: *“The Committee further recommends that the State party strengthen its efforts and establish a well-structured, systematic cooperation with civil society to set clear minimum standards for service providing activities and ensure that the minimum standards are given the necessary follow-up” (Committee’s Concluding Observations to Haiti, 2016 5).*

International organizations, for their part, provide support mainly through technical and financial assistance. With regard to this cooperation, it is worth reflecting on the **scarcity of references to agencies of the Organization of American States (OAS).** The only State that refers to the OAS as a regional partner is Suriname.

## **2) Prevention**

Action relating to prevention is basically of two types: **awareness-raising for the wider community** and **training for stakeholders involved with children and adolescents during the course of their duties.** However, at least as far as we were able to gather from the

information provided in the reports, **issues are addressed generically or indistinctly as sexual abuse and violence or even ill-treatment in general.**

For this reason, it is necessary to attempt to discover, through other sources of information, whether specific prevention action is in place in the area of child exploitation, trafficking and smuggling, and what it involves.

In keeping with the type of report submitted by the States, the Committee's Concluding Observations are also aimed generically at promoting awareness of the provisions of the Convention. Only in exceptional cases (such as for Saint Vincent and the Grenadines, included below) are these issues explicitly mentioned.

*"The Committee recommends that the State party strengthen its awareness-raising programmes on the Convention, including through greater media engagement, in a child-friendly manner, promoting the active involvement of children themselves in public outreach activities and ensuring targeted measures for parents, social workers, teachers and law enforcement officials"* (Committee's Concluding Observations to Barbados, 2017: 3).

*"[...] (c) Conduct awareness-raising and education programmes, including campaigns, aimed at preventing and responding to the sexual exploitation of children, targeting parents, children and community members"* (Committee's Concluding Observations to Saint Vincent and the Grenadines, 2017: 8).

In these recommendations, we should highlight **the multiple number of stakeholders that prevention action must target:** children and youth, parents, guardians or appropriate caregivers, social workers, teachers (and other actors in the education system), law enforcement officers and the wider community, to which end it is essential to have the support of the media. To the stakeholders listed above, we should add actors involved in the healthcare system and the judiciary, as well as those in the areas of technology and telecommunications, and the travel and tourism industry (in view of the new settings in which SEC occurs).

Finally, we should underscore the **importance of assessing the impact and scope of these actions;** which does not always take place, with the result that we ignore the effectiveness of the measures taken.

### 3) Protection

**The CARICOM member States have ratified or acceded to most of the international instruments** related or linked to child sexual exploitation, smuggling and trafficking.

However, there are two situations that stand out: **the non-ratification of the *Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography* by Barbados, Saint Kitts and Nevis and Trinidad and Tobago, and the non-ratification by any of the States, with the exception of Belize, of the *Inter-American Convention on International Traffic in Minors*.**

The Optional Protocol, in particular, reinforces and complements the provisions of the CRC in relation to the right of persons under the age of 18 to special protection from sexual exploitation. In this respect, it is understood that its signature and ratification is indispensable in order to ensure and demand accountability from the States.<sup>25</sup>

Regarding minimum ages for full age, employment, marriage and sexual consent:

- ➔ **Most of the States in the region (10) define a child as a “person under the age of 18”.** In Grenada and in Saint Lucia, there is no single definition; it varies according to different laws. Suriname and Trinidad and Tobago, where full age is established at the ages of 21 and 14 respectively, were – at the time of submitting their reports – in the process of bringing their legislation into line with the provisions of the CRC, with laws that had not yet been adopted.
- ➔ **The minimum age for employment in the region ranges between 12 and 16 years, with the age of 14 predominating slightly (in 5 States).** For their part, Antigua and Barbuda, Belize, Grenada and Jamaica reported the existence of special conditions for different age groups.
- ➔ **Half of the States in the region (Antigua and Barbuda, Barbados, Dominica, Guyana, Jamaica, Saint Kitts and Nevis and Saint Lucia) set the minimum age of marriage at 16, with the consent of parents or guardians (except for Saint Kitts and Nevis, where no consent is necessary).** In Bahamas and Belize, the age of marriage is 15 (with exceptions set at 13) and 14 years respectively. Information available on Grenada indicates that parental consent is required up to the age of 21, but does not provide a minimum age. Finally, four of the States establish different ages for males and females, with the age for females being the lower in all cases, which indicates the prevalence of gender inequality in this regard: Haiti (18 and 15, although this is unclear, as noted in the relevant chart), Saint Vincent and the Grenadines (16 and 15), Trinidad and Tobago (14 and 12) and Suriname (17 and 15).

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<sup>25</sup> For this reason, in 2017, the IIN-OAS and the Office of the United Nations Secretary-General’s Special Representative on Violence against Children launched a joint initiative promoting these ratifications by means of, as a first step, a Note explaining the importance of ratification and of institutional willingness to provide technical assistance to the State to make it happen.

- **The age of consent also varies.** Six of the States (Bahamas, Barbados, Dominica, Guyana, Saint Kitts and Nevis and Trinidad and Tobago) set the age of consent at 16, both for females and for males. In Antigua and Barbuda, it is 14 and 16, respectively. There is no information available for Jamaica and Haiti. However, the cases of Belize (16), Grenada (16), Saint Vincent and the Grenadines (15), Saint Lucia (no specific information) and Suriname (14) deserve a special mention, as they only **establish the age of consent for girls**. This has two implications. On the one hand, it shows the unequal regulation of sexuality between girls and boys, to the detriment of girls, in keeping with the patriarchal rationale. But on the other (as we were able to observe in an analysis of specific legislations), it leaves boys in a highly vulnerable situation as regards sexual offences.

**It is important to be aware of these definitions in the understanding that they may have an impact on the way the problems of sexual exploitation, smuggling and trafficking are perceived and conceptualized.**

With regard to the legislation in each of the States, we observed the following trends:

- Antigua and Barbuda, Barbados, Dominica, Guyana, Jamaica, Saint Lucia and Trinidad and Tobago (seven States) refer in general to **acts on children** (under different names depending on the country), which in broad terms recognise the rights of children and include child abuse and exploitation as forms of violence and ill-treatment.
- Antigua and Barbuda, Belize, Haiti, Jamaica and Saint Lucia (five States) have **specific laws on human trafficking**, which is evidence of the weight (as mentioned) given to this issue compared to the problem of child sexual exploitation (regarding which there is no specific law in any of the States).
- Antigua and Barbuda, Bahamas, Barbados, Dominica, Guyana, Jamaica and Trinidad and Tobago (seven States) have **Sexual Offences Acts**, which include various sexual offences in general, and offences against children in particular. We should underscore the fact that nowhere is explicit mention made of child sexual exploitation as a criminal offence. Rather, sexual abuse or engaging in sexual intercourse with children below a certain age are punishable as criminal offences, **without referring to the exchange element that exploitation involves**. However, **procuring, specifically, is punishable as a criminal offence**, when it involves inducing a minor to have sex with another person, or facilitating such a relationship, either in personal terms (Antigua and Barbuda, Trinidad and Tobago), or as the owner or manager of premises used for such purposes (Barbados and Trinidad and Tobago).

- ➔ Belize, Grenada, Saint Lucia, Saint Vincent and the Grenadines and Suriname (coincidentally, the five States that do not have laws on sexual offences) refer to the provisions of their **Criminal Codes** in relation to sexual offences. **In these cases, some specific elements may be observed in relation to the problem of SEC, mainly as regards using children in prostitution and pornography.**
- ➔ Barbados, Dominica and Saint Kitts and Nevis mention their **Offences Against the Person Acts**, which cover abduction, seizure and kidnapping, offences related to trafficking in persons.

A specific analysis of the contents of each of the aforementioned laws would constitute a valuable report in itself, although it exceeds the objectives of this one. However, there are some aspects we should highlight.

Firstly, the **lack of specific references to the sexual exploitation of children and its different forms** (which could be a result of the situation in the States and/or a consequence of the type of report submitted and the information provided).

Secondly, and in line with the above, there are **few regulatory references to the Internet and to travel and tourism as settings where child sexual exploitation situations occur**. Only Guyana and Jamaica give consideration to offences over the Internet, referring respectively to grooming and cybercrime, and pornography. In addition, the provisions in the laws of Barbados and Trinidad and Tobago relating to premises where sexual intercourse with minors takes place could be linked to SECTT scenarios. However, **the lack of specific provisions is worrying, bearing in mind that the countries in this region are highly dependent on tourism as an economic activity**.

The Committee shares this concern:

*“The Committee is concerned at the lack of regulations and procedures to protect children from exploitation in the tourism sector. In the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights, the Committee recommends that the State party examine and adapt its legislative framework to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the State party’s territory, especially in the tourism sector, in relation to the sale and sexual and labour exploitation of and trafficking in children” (Committee’s Concluding Observations to Saint Vincent and the Grenadines, 2017: 3).*

In this regard, the IIN **suggests increasing coordination with regional bodies dedicated to the prevention of SEC in these contexts, such as the Regional Action Group of the Americas to prevent Child Sexual Exploitation in Travel and Tourism (GARA, for its acronym in Spanish)**. GARA was formed in 2005 with the purpose of providing a response



to this issue and is currently composed of the ministries, institutes or services for tourism of 14 countries in the Americas: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru and Uruguay, as well as ECPAT International and IIN-OAS as observers.<sup>26</sup>

Finally, we have noted the existence of **discriminatory laws from a gender perspective**. In their various bodies of law, Barbados, Belize, Grenada, Guyana, Saint Lucia and Saint Vincent and the Grenadines have **provisions that protect girls from sexual offences, without providing specifically for boys, which places them at greater risk**. For its part, for the same offence (sexual intercourse with a minor) Trinidad and Tobago provides different penalties according to whether the victim is a girl or a boy. This discrimination has been recognized by some of the States and pointed out by the Committee as a cause for concern. It suggests – and the IIN agrees – performing a **critical review of the legislation and making the necessary amendments in order to ensure equal protection**:

*Belize: “As noted, different gender treatment of child sexual assault and abuse, and associated protective provisions, also continue to exist – even to widen, given recent improvements in provisions for girls” (Country Report, 2003: 18)*

*“The Committee also notes with concern that the sex offence legislation of the State party is discriminatory, leaving boys without equal legal protection from sexual assault and abuse” (Committee’s Concluding Observations to Belize, 2005: 16). And recommends the State “[...] (e) To critically review its sex offence legislation in order to ensure equal legal protection from sexual assault and abuse for girls and boys” (Committee’s Concluding Observations to Belize, 2005: 17).*

*“[...]the Committee regrets that there is no protection for boys against ‘unlawful carnal knowledge’” (Committee’s Concluding Observations to Grenada, 2010: 13).*

*Saint Lucia: “This Code while generally consistent with Article 34 of the Convention does not address equally the rights of boys and girls to be protected from sexually offences. Additionally, the Code does not prohibit expressly sexual intercourse with male children; neither does it reflect specific protection of males against indecent acts, prostitution, or incest. It also fails to address the issue of pornography as it relates to children” (Country Report, 2004: 59).*

**The Committee also recommends making the minimum ages of marriage and sexual consent equal for girls and for boys.**

It is with regard to access to justice (reporting mechanisms, measures of protection, child participation in court proceedings) that **the greatest differences are detected between the provisions of the law and what actually happens**.

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<sup>26</sup> For further information on child sexual exploitation in travel and tourism, and GARA, see: <http://www.annaobserva.org/gara/>



In the region, complaints or reports of child abuse or ill-treatment are usually made to the child protection body (Bahamas, Barbados, Belize, Dominica, Jamaica, Saint Lucia) or the police department (Antigua and Barbuda, Belize, Suriname, Trinidad and Tobago), which often work in coordination.

Four of the States (Bahamas, Belize, Jamaica and Trinidad and Tobago) provide for mandatory reporting for families and persons working in healthcare, education, social services and the police, or any other person whose employment or occupation involves working with children. **This provision, which is deemed to be positive, demands as a counterpart that there be effective institutional responding capacity, on the part of the bodies who receive the complaints, the judicial system providing follow-up for the cases and the protection system to care for victims,** which does not always happen.

Despite certain limitations (related to infrastructure and human resources), Belize, Dominica, Grenada, Jamaica and Saint Lucia have courts and mechanisms specializing in or adapted to children (their own areas, designated days to deal with children's issues, different procedures).

In relation to child participation in court proceedings, there is no minimum age in most of the States, although there are conditions for such participation, such as that psychologists should determine whether it is appropriate for children to participate, and that court officials should be sensitized to the forms of expression used by children. However, the States acknowledge that they **lack tools and trained human resources to implement child participation, so that, in fact, the views of children are not consulted, or they are disregarded.**

It should be noted in this regard that four of the States (Guyana, Jamaica, Saint Lucia and Trinidad and Tobago) **include audio-visual media as a means to gather the evidence of children who are victims or witnesses of sexual offences. At the IIN we consider that this practice should be extended.**

On this point, the Committee's recommendations focus on the **importance and need to report abuse and sexual exploitation cases** (to which end it urges States to implement awareness-raising measures aimed at the general population and to adopt mechanisms and guidelines to enforce mandatory reporting), and on the need to take steps to **ensure that cases are investigated and perpetrators are prosecuted**, including training the professionals involved, who **should be particularly sensitive to the needs of child victims.**

*"[...] (a) Establish mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse and exploitation; [...] (d) Ensure adequate resources for and training of relevant personnel in order to expeditiously investigate cases of sexual abuse and exploitation and identify alleged perpetrators, ensuring*

that they are properly prosecuted and appropriately sanctioned” (Committee’s Concluding Observations to Antigua and Barbuda, 2017: 7).

*“Initiate a prompt, efficient, effective and child-friendly system for the mandatory reporting of cases of child sexual abuse and exploitation in the home, in schools, in institutions or in other settings, investigate and prosecute all reports and allegations of child sexual abuse and exploitation, and punish perpetrators by handing down sentences commensurate with the gravity of the crime”* (Committee’s Concluding Observations to Barbados, 2017: 7).

*“While noting that the State party has measures to allow child victims to testify by videolink, the Committee is concerned that there are no child witness support and protection programmes for guiding child victims and safeguarding and facilitating their situation in complaints, interrogation and testimony processes. The Committee recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and/or witnesses of crimes, including child victims of abuse, domestic violence, sexual and economic exploitation, abduction and trafficking, and witnesses of such crimes, are provided with the protection required by the Convention and that the State party take fully into account the Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20)”* (Committee’s Concluding Observations to Guyana, 2013: 17).

*“[...] (a) Ensure that acts of sexual abuse and exploitation are effectively investigated, that the perpetrators are brought to justice and that out-of-court settlements involving financial arrangements between perpetrators of child sexual abuse and parents of child victims are prohibited; (b) Provide accessible, confidential, child-friendly and effective complaint procedures for sexual abuse and exploitation [...] (e) Establish mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse and exploitation [...] (f) Ensure that all professionals and staff working with and for children are given the necessary training, supervision and background checks; and provide systematic training to law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child- and gender-sensitive manner that respects the privacy of the victim”* (Committee’s Concluding Observations to Saint Lucia, 2013: 9).

#### **4) Care and Restitution**

**Very few of the reports made by the States in the region contain specific information on care and restitution of rights for child victims of sexual exploitation.** This lack of specific information may be the result of issues concerning the transmission or prioritization of

information it is decided to submit to the Committee (bearing in mind the type of reports submitted), or of the actual inexistence of specialized services.

Only Antigua and Barbuda, Guyana, Haiti and Jamaica refer expressly to sexual exploitation or human trafficking. Most of the States (Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Saint Lucia, Saint Vincent and the Grenadines and Trinidad and Tobago) mention institutional responsibilities and resources to address forms of ill-treatment, neglect or violations of rights in general, which lead to separating children from their families. Slightly more specifically, Bahamas, Dominica, Guyana, Haiti, Saint Lucia and Suriname report on responses to cases of abuse and sexual violence.

Regardless of the type of primary violation indicated, we reiterate that **the institutions and services available are insufficient in number; nor are they suitable for the care and protection** of children and adolescents who, for whatever reason, require alternative care.

With this in mind, we may presume that there is a **lack of specific and specialized venues and services with qualified personnel for victims of SEC**, which is even more worrying.

In this respect, we share the Committee's repeated observations to various States regarding the **need to set up and/or improve services for the care, recovery and social reintegration of victims**:

*"(d) Providing services for the physical and psychological recovery and social reintegration to victims of sexual abuse and any other child victims of abuse, neglect, ill-treatment, violence or exploitation, and taking appropriate measures to prevent the criminalization and stigmatization of victims, including through cooperation with NGOs"* (Committee's Concluding Observations to Antigua and Barbuda, 2004: 9);

*"[...] (c) Ensure adequate quality services, including free and timely access to emergency contraception and HIV prophylaxis, as well as resources to protect, compensate and rehabilitate child victims of sexual exploitation and abuse and provide specific support to girls and single mothers living in poverty with a view to preventing them from resorting to so-called 'transactional sex'"* (Committee's Concluding Observations to Haiti, 2016: 10);

*"[...] (c) Continue to implement appropriate policies and programmes for the recovery and social reintegration of child victims, ensuring that education and training, as well as counselling, health care and other social services, are provided to them, in accordance with the outcome documents adopted at the World Congresses against Commercial Sexual Exploitation of Children [...]"* (Committee's Concluding Observations to Jamaica, 2015: 19);

*"[...] (c) Develop programmes and policies for the prevention, recovery and social reintegration of child victims, in accordance with the outcome documents adopted at the 1996, 2001 and 2008 World Congresses against Sexual Exploitation of Children*

*held in Stockholm, Yokohama, Japan, and Rio de Janeiro, Brazil, respectively” (Committee’s Concluding Observations to Saint Lucia, 2013: 9);*

*“[...] (e) Ensure that child trafficking victims receive appropriate social services and shelter and are not placed in juvenile detention facilities” (Committee’s Concluding Observations to Suriname, 2016: 16).*

In addition, reports do not contain information regarding the intervention methodologies implemented. In this respect, it would be useful to conduct a specific study on care and rights restitution programmes or services, including information on: persons or bodies responsible, modality (internment or ambulatory), time frames, technical team, actions and activities included, etc.<sup>27</sup>

## 5) Participation

As noted at the beginning of the relevant chapter, **references to child participation in the reports are scant and refer to a variety of participation settings, levels and objectives.** The reason for this might be that the recognition and exercise of the right to participation are still incipient.

The Committee expressed its concern at the fact that owing to certain social attitudes and traditions, children had few opportunities to express their views freely in their families and schools, courts and communities and **recommended that all of the States should promote and facilitate their participation in all matters affecting them (including public policies), in accordance with Article 12 of the Convention, on the basis of both regulatory frameworks and specific participation strategies or mechanisms, including preparing adults to listen to and respect children’s views.**

*“[...] (a) Strengthen its efforts to ensure that children’s views are given due consideration in the family, in schools, in the courts and in all relevant administrative and other processes concerning them through, inter alia, the adoption of appropriate legislation, the training of professionals, the establishment of specific activities at schools and the conduct of awareness-raising activities among the general public” (Committee’s Concluding Observations to Antigua and Barbuda, 2017: 5).*

*“[...] (b) Ensure that children’s views are given due consideration in courts, schools, relevant administrative and other processes concerning children and in the home through, inter alia, the adoption of appropriate legislation, the training of*

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<sup>27</sup> In 2011 and 2012, the IIN-OAS undertook the study of experiences in the restitution of the rights of child victims of sexual exploitation in the region, giving rise to the following reports: *“Strategies and Models for the Restitution of the Rights of Child Victims of Sexual Exploitation in the Americas”* (2011), *“Framework of Reference for the Reparation and Restitution of the Rights of Child Victims of Commercial Sexual Exploitation with a Gender Perspective”* (2012). Available from: <http://www.annaobserva.org/publicaciones/>

*professionals working with and for children, and the development of operational procedures or protocols for such professionals to ensure respect for the views of children in administrative and judicial proceedings” (Committee’s Concluding Observations to Saint Vincent and the Grenadines, 2017: 5).*

To conclude, a new challenge has emerged: in view of the lack of specificity observed in some of the categories with regard to the issue of sexual exploitation, which may be due to the type of report submitted by the States, or to the fact there is, in fact, no approach to the issue in place in the region, it seems necessary to supplement this study by analysing other sources of information.

## APPENDIX: List of reports used as sources of information

STATES PARTIES	REPORTS <sup>28</sup>	DATE SUBMITTED	PERIOD COVERED
Antigua and Barbuda	Initial	4 February 2003	1995 - August 2001
	Committee's Concluding Observations on Initial Report	1 October 2004	-
	Second, Third and Fourth combined	9 July 2014	2003 - April 2013
	Committee's Concluding Observations on Second, Third and Fourth combined reports	2 June 2017	-
Bahamas	Initial	5 June 2003	
	Committee's Concluding Observations on Initial Report	28 January 2005	-
Barbados	Initial	12 September 1996	1990 - May 1995
	Committee's Concluding Observations on Initial Report	19 May 1999	-
	Second	25 February 2014	June 1997 - 2011
	Committee's Concluding Observations on Second Report	3 February 2017	
Belize	Second	28 February 2003	1996 - 2001
	Committee's Concluding Observations on Second Report	28 January 2005	-
Dominica	Initial	21 January 2003	
	Committee's Concluding Observations on Initial Report	4 June 2004	-
Grenada	Initial	24 September 1997	-
	Second	26 May 2008	2000 - 2007
	Committee's Concluding Observations on Second Report	11 June 2010	-
Guyana	Second, Third and Fourth combined	29 April 2010	2002 - 2010
	Committee's Concluding Observations on Second, Third and Fourth combined reports	1 February 2013	

<sup>28</sup> All reports are available from: The Office of the United Nations High Commissioner for Human Rights: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CRC](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CRC) (consulted 9/7/18)

<b>Haiti</b>	Second and Third combined	20 December 2013	2002 - June 2013
	Committee's Concluding Observations on Second and Third combined reports	29 January 2016	-
<b>Jamaica</b>	Third and Fourth combined	26 August 2011	January 2003 - December 2009
	Committee's Concluding Observations on Third and Fourth combined reports	30 January 2015	-
<b>Saint Kitts and Nevis</b>	Initial	21 January 1997	
	Committee's Concluding Observations on Initial Report	4 June 1999	
<b>Saint Lucia</b>	Initial	2 June 2004	1993 - 2003
	Committee's Concluding Observations on Initial Report	3 June 2005	-
	Second, Third and Fourth combined	8 February 2011	2003 on
	Committee's Concluding Observations on Second, Third and Fourth combined reports	13 June 2014	-
<b>Saint Vincent and the Grenadines</b>	Initial	5 December 2000	-
	Second and Third combined	-	2000 - 2010
	Committee's Concluding Observations on Second and Third combined reports	3 February 2017	
<b>Suriname</b>	Third and Fourth combined	16 January 2014	2007 - 2012
	Committee's Concluding Observations on Third and Fourth combined reports	30 September 2016	-
<b>Trinidad and Tobago</b>	Second	29 July 2003	1997 - 2002
	Committee's Concluding Observations on Second Report	27 January 2006	