

fact that under the Evidence Act the burden of proof in an offence of sexual exploitation of children rests with the prosecution and the law requires that the testimony of a child be corroborated by other material evidence. This very often gives rise to insurmountable difficulties in successfully prosecuting cases involving children. The report also notes more generally that the coexistence of Kenyan statutory, religious, and customary laws has resulted in conflicts of interests between such crucial actors as parents, guardians, religious leaders, and secular authorities, with children often caught in the middle.

The principles upon which government action to combat the problem of commercial sexual exploitation has been taken are noted as: the total elimination of the involvement of children of both sexes under 18 years of age in the commercial sex business; the prohibition of luring, threats, exploitation, and acts of violence in the operation of the commercial sex business; and, the imposition of punishments to all persons taking part in involving children in the commercial sex industry and punishment of any officials who are neglecting, or choose to ignore, their duty to enforce compliance with relevant policies, laws, rules and regulations, in particular those directed at the protection of children.

The strategies devised with these principles in mind are noted as including, *inter alia*: efforts to address the root causes of sexual exploitation of children and to prevent the phenomenon from increasing; the creation of projects and policies focussed on rural development strategies, poverty alleviation, and the raising of living standards of the rural poor, with the goal of reducing migration from rural to urban areas; efforts by provincial administrations, through education and awareness-raising campaigns, to discourage early marriages in an effort to prevent young girls from succumbing to the dangers of commercial sexual exploitation; a decision by the Ministry of Education to allow young girls who are pregnant to continue schooling; the establishment of a Crisis Desk within the Ministry for Home Affairs where complaints and cases concerning child abuse and neglect, as well as commercial sexual exploitation of children, can be directed; and the establishment of a National Coalition on Child Rights and Child Protection, involving governmental and non-governmental organizations and establishment of a subsidiary network to address such issues as early marriages, female genital mutilation, and other harmful traditional practices affecting the health of girls such as the ritual enslavement of young girls among some ethnic groupings, as well as child prostitution.

On the issue of prevention, the report notes there has been an effort to incorporate into school curricula a "family life education" campaign, targeted especially at girls, but that the Catholic Church has opposed the programme. The SR stated that the Catholic Church is willing to participate in the rehabilitation of child victims and in the healing process but, it seems, not in some preventative actions, such as sex education in schools.

The commentary on the criminal justice system notes a number of points, including that: most cases of sexual

exploitation are not reported; one of the major causes of such under-reporting is the fact that since the majority of child sexual exploiters are men, male police officers tend not to take reported cases seriously; the practice of law enforcement agents, the majority of whom are men, is to consider child abuse cases as largely "domestic matters", which has minimized the importance of developing suitable places of safety for child victims; the high turnover of responsible officers within the police force has made it difficult for non-governmental organizations to maintain cooperation with law enforcement officials; police lack training and sensitization programmes in how to address child victims; current legislation does not distinguish between a child in need of discipline and a child in need of protection, making the work of law enforcement officers difficult; magistrates still tend to overuse institutionalization as a remedial measure for street children; there are no specific psychological rehabilitation programmes for child victims of crime, including sexual abuse or exploitation; street children are frequently tried in regular courts as adults, without the special protection provided to children under Kenyan law; judicial authorities do not appear to appreciate fully the severity of sexual abuse or exploitation, as evidenced by court decisions in which child sex offenders appear to have been treated leniently; and there exists no formal or informal training for members of the judiciary, including justices and magistrates, on juvenile issues.

The recommendations in the report are addressed to both government and other sectors.

The report recommends that the government, *inter alia*:

- ♦ relative to ratification of the Convention on the Rights of the Child, submit its reports as scheduled to the Committee on the Rights of the Child; ratify the African Charter on the Rights and Welfare of the Child; take measures to harmonize chapter V of the Constitution with the Convention on the Rights of the Child;
- ♦ set the legal age of majority at 18 years;
- ♦ include specific provisions prohibiting commercial sexual exploitation of children in the proposed Children's Bill; ensure that the Children's Bill clearly separates criminal from protection cases for children, and that children receive all due process protections required by international law when deprivation of liberty is at stake;
- ♦ revise penalties concerning rape and defilement;
- ♦ revise laws to ensure, as a matter of priority, that child-care institutions provide separately for children in need of protection and those in need of discipline, and that remedial and reintegration measures for one are distinct from the other;
- ♦ formulate national laws governing extra-territoriality to prosecute and deter tourist involvement in commercial sexual exploitation of children;