

# COUNCIL MONITOR

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Human Rights Monitor Series

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Report of the Special Rapporteur on the sale of children, child prostitution and child pornography

### Mandate holder

Juan Miguel Petit

### Mandate

The mandate was established in accordance with *Resolution 1990/68* of the Commission on Human Rights.<sup>1</sup> The role of the Special Rapporteur is to consider matters relating to the sale of children, child prostitution, and child pornography. He is required to investigate the exploitation of children around the world and to submit reports on the findings to the General Assembly and the Commission on Human Rights. He also makes recommendations for the protection of the rights of the children concerned. The appointment has been regularly renewed, most recently in 2001.<sup>2</sup>

### Activities

- The Special Rapporteur will present his annual report during the 7<sup>th</sup> session of the Human Rights Council ('the Council').
- The Special Rapporteur carried out one field mission to Mexico from 4 to 15 May 2007. The aim of this mission was to study the phenomenon of sexual commercial exploitation affecting children. The Special Rapporteur will also present his report on the mission during the 7<sup>th</sup> session of the Council.
- The Special Rapporteur sent 12 communications to governments in the form of letters and urgent appeals.
- Since his appointment, the Special Rapporteur has visited South Africa, France, Brazil, Paraguay, Romania, Albania, Greece, and Ukraine.
- The Special Rapporteur sent an extensive questionnaire to all members of the Council on assistance and rehabilitation programmes for child victims of sexual commercial exploitation.

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<sup>1</sup> E/CN.4/RES/1990/68, 7 March 1990.

<sup>2</sup> Paragraph 30, E/CN.4/RES/2001/75, 25 April 2001

## **Annual report<sup>3</sup>**

### **Scope**

- The purpose of this report is to provide comprehensive guidelines for the establishment and management of rehabilitation and assistance programmes for minors who are victims of sexual commercial exploitation and trafficking.
- The report is based on and reflects information received from governments, international organisations, non-governmental organisations, and individuals in response to a questionnaire sent by the Special Rapporteur on sale of children, child prostitution and child pornography.
- It takes into account examples provided by various States and positive initiatives developed by civil society and international organisations.

### **Summary and key conclusions**

- The Special Rapporteur summarises his previous reports.<sup>4</sup>
- The Special Rapporteur analyses several examples of States that have already elaborated assistance and rehabilitation programmes for children victims of trafficking and sexual commercial exploitation.
- Rehabilitation and assistance programmes may take many forms such as shelters and medical and psychological assistance, and may depend on many factors, such as availability of funding, availability of services, and capacity and demand for these programmes and facilities.
- The Special Rapporteur believes that a shelter or a rehabilitation programme needs to include at least the following elements: medical care, psychological assistance, interviews with children victims of abuse, education, and recreational activities.
- The responses obtained by the Special Rapporteur to the questionnaire sent to all members of the Council show the different strategies implemented at national level.<sup>5</sup>
- The same questionnaire was sent to non-governmental organisations (NGOs) and international organisations working in the field.<sup>6</sup>

### **Key recommendations**

- The Special Rapporteur is of the opinion that children who are victims of commercial sexual exploitation are in need of special, separate programmes and facilities catering specifically to their needs.
- The Special Rapporteur encourages all countries to develop their own systems of quick response to search for disappeared or abducted children.
- The Special Rapporteur calls upon States, together with NGOs and other civil society actors, to set up specific rehabilitation and assistance programmes for children and minors who are victims of sexual commercial exploitation and trafficking.
- The Special Rapporteur recommends that shelters for the assistance and rehabilitation of children should, at a minimum, provide the following services and facilities: a place of residence, food and clothes, full medical aid, competent staff, psychological counselling, education facilities, legal aid, translation services, personalised care, and recreational activities.

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<sup>3</sup> A/HRC/7/8, 9 January 2008, available at <http://www2.ohchr.org/english/bodies/hrcouncil/7session/reports.htm>

<sup>4</sup> E/CN.4/2002/88, E/CN.4/2003/79, E/CN.4/2004/9, E/CN.4/2005/78, E/CN.4/2006/67.

<sup>5</sup> Examples were given from Australia, Austria, Belgium, Croatia, Ecuador, El Salvador, Finland, Georgia, Germany, Greece, Guatemala, Honduras, Spain, Turkey, Japan, Slovakia, Cyprus, Luxemburg, Monaco, Zimbabwe, Oman, Poland.

<sup>6</sup> The report outlined the activities of Terre des Hommes and End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT).

- The Special Rapporteur recommends all States to incorporate in their national legislation provisions for funding programmes and activities aimed at the assistance and rehabilitation of children who are victims of sexual commercial exploitation and/or trafficking.
- The Special Rapporteur stresses that educational programmes as well as awareness-raising activities are essential in the fight against commercial sexual exploitation and trafficking of children.
- The Special Rapporteur strongly encourages the States that have not yet done so to sign and ratify the two Optional Protocols to the *Convention on the Rights of the Child*.
- The Special Rapporteur welcomes the adoption of the *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*.

## **Mission to Mexico<sup>7</sup>**

### **Scope**

This report analyses the legal frameworks at the Mexican federal level and in the states visited. It follows a discussion of the various programmes and policies adopted by governments and civil society actors. The Special Rapporteur then compares the situation prevailing in each city visited.

### **Activities**

- The Special Rapporteur visited the following places: Guadalajara (Jalisco), Tijuana (Baja California), Ciudad Juárez (Chihuahua) and the Federal District.
- The Special Rapporteur met with a number of ministries responsible for law enforcement and child protection.
- The Special Rapporteur conducted on-site visits to observe the situation of children on the streets and in bars, nightclubs and areas considered as social risks.

### **Summary and key conclusions**

- The Mexican Constitution states that activities relating to the sale or trafficking and prostitution of minors, as well as child prostitution, shall be subjected to investigation and punishment.<sup>8</sup>
- In August 2007, the Criminal Code of the Federal District was amended and now classifies the corruption of minors, child prostitution, sex tourism, and pornography as ‘offences against the free development of the personality’.
- Only 5 of the 32 Mexican states have specifically criminalised offences against minors.
- The National System for the Comprehensive Development of the Family (DIF) is the principal governmental organisation dealing with children.
- The Special Rapporteur takes note of the valuable and professional work being carried out by the National Human Rights Commission of Mexico, particularly its efforts to raise children’s awareness of their rights.<sup>9</sup>
- Civil society associations are also implementing programmes to combat the sale of children, child prostitution and child pornography.
- The Special Rapporteur reports the situation and problems in the cities visited.<sup>10</sup>

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<sup>7</sup> A/HRC/7/8/Add.2

<sup>8</sup> Articles 17, 21 and 102 of the Mexican Constitution

<sup>9</sup> “Casa del Árbol” (Tree House), a project of the Human Rights Commission, in which children have a opportunity to learn about their rights and protect them.

<sup>10</sup> Mexico City (Federal District), Guadalajara, Tijuana, Ciudad Juárez

## **Key recommendations**

- Although Mexico has made great progress in recent years in the protection of children's human rights, there still is no effective system to protect and provide assistance to children and young people who have been victims of sexual exploitation or trafficking.
- The Special Rapporteur urges political actors to ensure that the protection of children from sexual exploitation is a national priority.
- The Special Rapporteur considers that the State should maintain its leadership role in the area of policies on children. Nevertheless it should also transfer resources to civil society in order to enable it to cooperate effectively.
- The Special Rapporteur recommends the creation of a high-level National Council on Children and the initiation of a national dialogue with NGOs.
- He also recommends the creation of an ombudsman for children.
- The Special Rapporteur recommends the establishment of special centres fully equipped to provide emergency assistance to minors who have been victims of child commercial sexual exploitation.
- The Special Rapporteur recommends the strengthening of relations with the International Labour Organization.
- He recommends that Mexico sign the *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*.
- In relation to the rape, ill-treatment, and murder of 200 women in Ciudad Juárez since 1993, the Special Rapporteur recommends the establishment of a Truth and Prevention Commission. He also recommends the erection of a monument or memorial in honour of the victims.
- The Special Rapporteur urges the Mexican academic community to make an in-depth study of subjects relating to the protection of minors.
- The Special Rapporteur urges the competent government authorities to carry out inspections to ensure that child pornography is not possessed, produced or distributed in Mexico.

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