

Distr.  
GENERAL

E/CN.4/2004/9/Add.2  
3 February 2004

ARABIC  
Original: ENGLISH

## المجلس الاقتصادي والاجتماعي



لجنة حقوق الإنسان

الدورة الستون

البند ١٣ من جدول الأعمال المؤقت

### حقوق الطفل

تقرير مقدم من السيد خوان ميغيل بيتيت، المقرر الخاص المعني  
بمسألة بيع الأطفال واستغلالهم في البغاء وفي المواد الخليعة

إضافة

البعثة المضطلع بها إلى البرازيل \*\*

\*  
يعمم موجز هذه البعثة بجميع اللغات الرسمية. غير أن التقرير ذاته الوارد في مرفق الموجز معمم بلغة  
التقرير فقط.

\*\*  
وفقاً لقرار الجمعية العامة ٢٠٨/٥٣ بء، الفقرة ٨، تقدم هذه الوثيقة متأخرة بغية تضمينها أحدث  
المعلومات الممكنة.

## موجز

أجرى المقرر الخاص المعني بمسألة بيع الأطفال واستغلالهم في البغاء والمواد الخليعة زيارة إلى البرازيل في الفترة من ٣ إلى ١٤ تشرين الثاني/نوفمبر ٢٠٠٣ شملت برازيليا وبيليم (ولاية بارا) وسلفادور (باهية)، وساو باولو وريو دي جانيرو.

وكان القرار الرائع الذي اتخذته الرئيس لويز إيناسيو لولا دا سيلفا بأن تولي حكومته الأولوية إلى مسألة مكافحة استغلال الأطفال جنسياً، عاملاً هاماً لحشد الجهود على المستوى المؤسسي ودعمًا قوياً للمنظمات والحركات الاجتماعية ملتزمة بالنهوض بحقوق الطفل.

هناك في البرازيل إطار للتشريعات والسياسة العامة لمكافحة الاستغلال الجنسي للأطفال. ويتمثل التحدي المقبل للبرازيل في التنفيذ الكامل للقانون التنظيمي الخاص بالأطفال والمراهقين، والعمل على زيادة أثر السياسات والبرامج الاجتماعية إلى أقصى درجة لمعالجة الأسباب العميقة الجذور والعوامل التي تسهم في الاستغلال الجنسي للأطفال، مثل الفقر والفروق الاجتماعية والتمييز بحسب الجنس والعنف والإفلات من العقاب.

ويوصي المقرر الخاص، في إطار القانون التنظيمي الخاص بالأطفال والمراهقين، بإنشاء مجالس للوصاية في جميع البلديات. كما يوصي بإنشاء محاكم جنائية متخصصة للأطفال ضحايا الجرائم، وإنشاء وحدات متخصصة في مكتب المدعي العام وفي دوائر الشرطة المتخصصة، لحماية الأطفال والمراهقين.

وينبغي الإيمان بكل حزم بأن أحداً لن يفلت من العقاب بعد الآن. وهذا يستدعي، على وجه التحديد، تعديل مؤسستين رئيسيتين وهما جهاز الشرطة والجهاز القضائي. ومن شأن إسناد بعض مهام التحقيق إلى المدعين العامين أن يؤدي إلى تحسين فعالية عمليات التحقيق.

وفيما يتعلق بالسياسات والبرامج، يوصي المقرر الخاص بتعزيز برامج الوقاية وجهود التنسيق. والتعليم هو سلاح استراتيجي في مكافحة الاستغلال الجنسي للأطفال.

وتستهدف معظم برامج المساعدة، بصورة رئيسية، ضحايا العنف الجنسي وبدرجة أقل الأطفال المتورطين في الاستغلال الجنسي. ولذا يتمثل التحدي في الوصول إلى أولئك الأطفال. ومن ثم ينبغي تحديد الاستراتيجيات المتعددة التخصصات لتعتمد عليها خطة العمل في مجال الاستغلال الجنسي للأطفال.

وينبغي إدراج البعد الجنساني في جميع السياسات والبرامج المتعلقة بالاستغلال الجنسي للأطفال. وبوجه الخصوص، ينبغي اتخاذ خطوات لتغيير التصوير المقبول لجسد المرأة كسلعة. والسياحة ووسائل الإعلام قطاعان رئيسيان ينبغي استهدافهما.

## Annex

**REPORT of THE SPECIAL RAPPORTEUR ON THE  
SALE OF CHILDREN, CHILD PROSTITUTION AND  
CHILD PORNOGRAPHY, JUAN MIGUEL PETIT, ON  
HIS MISSION TO BRAZIL (3-14 NOVEMBER 2003)**

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## Introduction

1. The Special Rapporteur on the sale of children, child prostitution and child pornography conducted a country mission to Brazil from 3 to 14 November 2003. The Special Rapporteur would like to thank the Government of Brazil, in particular the Special Secretary on Human Rights of Brazil for the commendable support provided in the organization of the visit. The Special Rapporteur expresses his gratitude to the United Nations Children's Fund (UNICEF) for its assistance in the organization of meetings with non-governmental organizations (NGOs). He also thanks the United Nations Development Programme (UNDP), the International Labour Organization (ILO), and the United Nations Information Centre (UNIC) for the support provided.

2. The mission visited Brasília, Belém (Pará), Salvador (Bahia), São Paulo, and Rio de Janeiro. The Special Rapporteur had some 60 meetings and direct contact with approximately 500 people. He met representatives of the executive, legislative and judicial branches of the Government. In particular, he was honoured to meet with the Special Secretary on Human Rights of Brazil (*Secretaria Especial dos Direitos Humanos, SEDH*), the National Secretary for Justice in the Ministry of Justice, the Mixed Commission of Investigation of the Parliament (*Comissão Parlamentar Mista de Inquérito do Congresso Nacional, CPMI*), the President of the Federal Supreme Court (*Supremo Tribunal Federal*), the Supreme Court of Justice (*Superior Tribunal da Justiça*), and the National Council for the Rights of Children and Adolescents (*Conselho Nacional dos Direitos da Criança e do Adolescente, CONANDA*). He also met representatives of the government programme Zero Hunger (*Fome Zero*), Family Grant and the Sentinel Programme. At the state level, he met representatives of the three branches and was received by authorities including the Governor of Pará, the mayor of Belém, the deputy mayors of São Paulo and Rio de Janeiro. He had meetings with the State Public Prosecutors' Offices of the State of Pará, Bahia, São Paulo and Rio de Janeiro. He also met with representatives of research institutions and visited a variety of assistance programmes and shelters. A more detailed programme of the above-mentioned meetings will be made available on the Special Rapporteur's web site ([www.unhchr.ch/children/rapporteur.htm](http://www.unhchr.ch/children/rapporteur.htm)).

3. The Special Rapporteur would like to express his appreciation for the dynamism of the NGOs and social movements with which he met, in particular those that took an active role in the preparation and organization of the visit. In particular, he would like to thank Save the Children Sweden, Terre des Hommes, the Brazilian Institute for Innovation in Social Health (*Instituto Brasileiro de Inovações em Saúde Social, IBISS*), the News Agency for Children's Rights (*Agência de Notícias dos Direitos da Infância, ANDI*), the National Committee to Fight Sexual Violence against Children and Adolescents, the Centre for the Defence of Children and Adolescents in Belém and Salvador (*Centro de Defesa da Criança e do Adolescente, CEDECA Emaús and CEDECA Bahia*), the Brazilian Bar Association (*Ordem dos Advogados do Brasil, OAB*), and the Permanent Forum to Fight Sexual Violence against Children and Adolescents of the State of Rio de Janeiro.

4. Owing to constraints in his intense agenda, the Special Rapporteur regrets that he was not able to visit the juvenile detention centre of Rio de Janeiro (*Departamento Geral de Ações Sócio-Educativas, DEGASE*). He expresses his concerns about the allegations of ill-treatment of adolescents. Twenty per cent of girls detained in DEGASE for murder had killed to escape a situation involving rape or threat of rape and abuse. This figure is a dramatic indication of the cycle of violence that is perpetuated and aggravated by sexual abuse.
5. The Special Rapporteur received a large amount of documentation during the visit. In addition to documentation related to the general situation in the country and specific information on the States he visited (Distrito Federal, Pará, Bahia, São Paulo, and Rio de Janeiro), he received information on the following States: Ceará, Espírito Santo, Goiás, Maranhão, Minas Gerais, Pernambuco, Rio Grande do Norte, Rio Grande do Sul and Roraima.
6. The quantity and quality of the documentation reflected a great depth of research and methodology. It also demonstrated that the issue of sexual exploitation, in general, is being debated openly. These are already two important achievements.
7. In addition to the documentation quoted as bibliographical sources, a more detailed list of the documents that were submitted to the Special Rapporteur will be made available on his web site.
8. The aspect of the Special Rapporteur's mandate that was focused on during this visit was child sexual exploitation.

## **I. BACKGROUND**

9. Brazil is in the process of reform. Expectations for the outcome of this process are high both in Brazilian society and the outside world. In his first meeting with his ministries, on 8 January 2003, the President of Brazil Luiz Inácio Lula da Silva had stated that fighting against sexual exploitation would be one of the priorities of his Government. This was a commendable decision in terms of political commitment, unprecedented in the history of Brazil and unique worldwide. The President's decision has provided a big boost at the institutional level. It highlighted the challenges posed by child sexual exploitation and made the achievement of tangible results a priority of the political agenda.
10. The Special Rapporteur deemed this climate of change favourable for his visit and hopes his findings and recommendations will contribute to further reform.
11. The first Special Rapporteur on the sale of children, child prostitution and child pornography, Mr. Muntarbhorn, had visited Brazil in 1992. Today's Brazil is a different country from the one portrayed in the 1992 report on that visit (E/CN.4/1992/55/Add.1). The knowledge base on sexual exploitation is larger, the institutional framework more articulated, and the participation of civil society is also greater. The political commitment to fighting child sexual

exploitation has been firmly expressed. Nevertheless, sexual exploitation is still a problem. Some of the root causes of child sexual exploitation pointed out in the 1992 report, poverty, social inequalities and impunity, are still issues of great concern in Brazil. Statistics on income distribution are an illustrative example. The 1992 report quoted the 1991 UNDP Human Development Report, which stated that the top fifth of the population in Brazil earns 26 times more than the bottom fifth (*ibid.*, p. 3). The 2003 Human Development Report says that “The richest 10 per cent of households have 70 times the income of the poorest 10 per cent”.<sup>1</sup>

12. Poverty, social inequalities and impunity were addressed by other Special Rapporteurs who visited Brazil recently, namely the Special Rapporteur of the Commission on Human Rights on questions relating to torture, the Special Rapporteur on the right to food, who visited the country in 2001 and 2002 respectively (E/CN.4/2001/66/Add.2 and E/CN.4/2003/54/Add.1), and the Special Rapporteur on extrajudicial, summary or arbitrary executions, who was in Brazil a few weeks before this visit. Their findings have been taken into account in the preparation of the mission and the present report. The impact of their visits, especially the more recent one, was still being felt and the organizations contacted reiterated the positive impact of the Special Rapporteurs’ missions on the country. The Special Rapporteur considers this as an encouragement for other special rapporteurs to follow up on country missions in a spirit of collaboration that mutually reinforces their work on human rights.

13. During his visit, the Special Rapporteur witnessed horrors and miracles at the same time. For instance, he saw children who had been shot and abused arrive comatose at the Jabaquara hospital of São Paulo, together with the miracle of the team of doctors doing its best to rescue these children who were victims of the worst forms of violence. He witnessed formerly sexually exploited girl children who had managed to escape their situation and are now educators working in the streets to prevent other children from experiencing what they had suffered.

## **II. SEXUAL EXPLOITATION**

### **A. The issue of data**

14. Quantifying child sexual exploitation is a critical task. Commercial sexual exploitation of children (CSEC) is difficult to measure because of the many factors linked to the characteristics of the phenomenon. The illegality of CSEC, especially in its manifestations within organized crime, together with social unawareness or even complicity, make the phenomenon invisible and hence difficult to quantify.

15. The difficulty in quantifying CSEC is evident in the wide disparity in estimates given by different sources that vary from 100,000 to 500,000 cases. Other indicators of social maladjustment highlight the risk to which thousands of children are exposed.

16. The data available are those gathered by hotlines and programmes that provide assistance to victims. These programmes provide more assistance to victims of sexual abuse than victims of sexual exploitation. The attitude of sexually exploited adolescents, who often do not see themselves as victims, coupled with the pervasive sense of impunity for perpetrators and the feeling that no redress will be obtained through the judiciary, result in a very limited number of cases being reported. In addition to these factors that hamper the quantifying of the

phenomenon, all too often sexually exploited children and adolescents are the most marginalized of society, living sometimes without birth registration. They are non-existent as far as institutions are concerned and out of the reach of social services. This means that the number of reported cases are only the tip of a much bigger iceberg.

17. The Brazilian Multiprofessional Association to Protect Children and Adolescents (*Associação Brasileira Multiprofissional de Proteção à Infância e à Adolescência, ABRAPIA*) gathered data on cases of sexual exploitation reported via a hotline. From February 1997 to January 2003, 4,893 cases were reported. Sixty-eight per cent of the cases reported concerned sexual exploitation. The remaining 32 per cent alleged sexual abuses. As regards cases of sexual exploitation, 69 per cent concerned child prostitution, 25 per cent were Internet-related, only 3 per cent concerned sex tourism, 2 per cent related to the production and sale of pornographic material and 1 per cent trafficking for sexual exploitation.<sup>2</sup> As of May 2003, the hotline had been centralized by the Special Secretary on Human Rights but maintained the same number (0800 99 0500). From 15 May to 15 November 2003 the hotline received 3,874 reports of sexual abuse, violence and sexual exploitation of children and adolescents. Of that number, 509 were cases of commercial sexual exploitation, 1,203 concerned sexual abuse and 2,162 involved other forms of violence (negligence, physical abuse and psychological abuse).

### **B. Manifestations**

18. Adolescents, mostly girls, are forced into prostitution in different forms. In some cases, sexual exploitation is organized within the family. A member of the family, often the mother, organizes sexual encounters for their daughters at home. ABRAPIA's statistics indicated that 11.5 per cent of cases reported concerned CSEC within the family. Cases of intrafamily sexual exploitation are clearly related to a situation of poverty. They occur in marginalized areas where institutions and social programmes are virtually absent. This makes this form of sexual exploitation difficult to detect and, once detected, hard to tackle.

19. In other cases, adolescents prostitute themselves in the streets, particularly in areas where male manpower is concentrated. Critical among these are mining areas, harbours, large building sites, patrol stations, motorways and major roads with a high rate of truck traffic. Shopping malls and drive-in restaurants, as places with a lot of anonymous transit, are also critical areas for CSEC. Adolescents involved in CSEC have often left the family household and dropped out of school.

20. In some cases, girls are encouraged into prostitution to improve their status. They might be initiated into prostitution by schoolmates. Particularly in these cases, girls do not perceive themselves as victims. This, again, explains why it is so difficult for assistance programmes to interface with such victims of CSEC.

21. Child sexual exploitation is often linked to organized crime. This is especially the case when it occurs in brothels, bars, hotels and nightclubs. Some adolescents are reported to move back and forth between prostitution and drug trafficking. Girls involved in prostitution try to participate in drug trafficking because it is more profitable.



## 1. Trafficking

22. Brazil is considered a supplier country for internal and international trafficking. A *Pesquisa sobre Tráfico de Mulheres, Crianças e Adolescentes para Fins de Exploração Sexual Comercial (PESTRAF)*<sup>3</sup> study on trafficking in women, children and adolescents for commercial sexual exploitation in Brazil identified 241 international and national trafficking routes. In terms of countries of destination, the highest number of trafficking routes end in Spain, followed by the Netherlands, Venezuela, Italy, Portugal, Paraguay, Switzerland, the United States of America, Germany and Suriname.

23. The macrodimensions and characteristics of trafficking are clearly interconnected with globalization. Facilitated by technology, migration, advanced forms of transportation, the international economy and the deregulation of markets, trafficking also interconnects with international organized crime.

24. Poverty is closely related to trafficking. The north-east, the north and the central-west, when compared to the south and south-east of Brazil, show the highest poverty and social inequality indexes. PESTRAF identified the highest concentration of trafficking routes in the north and north-eastern regions and this confirmed the direct link between poverty, regional inequalities and trafficking; this trafficking involves the movement of people from rural areas to the cities, from the less developed to the most industrialized regions and from remote territories to urban areas.

25. Persons trafficked for sexual purposes are predominantly female and adolescent Afro-Brazilians, between 15 and 25 years old. The age group most often targeted is 15 to 17, amounting to an estimated 30 per cent of trafficked persons. Eighty per cent of trafficked women are mothers. This shows how mothers turn to prostitution as the only means to ensure the survival of their children. These data also indicate that these women are the sole bearers of the economic burden of raising children.<sup>4</sup>

## 2. Sex tourism

26. Sex tourism is one of the most widespread forms of CSEC in Brazil. Millions of foreign tourists visit Brazil each year. There were over 5.3 million in 2000, decreasing to some 3.7 million in 2002, mainly originating in South America and Europe.<sup>5</sup> The touristic image of Brazil is all too often associated with stereotypical representations of young women, mainly Afro-Brazilians, portrayed half naked in tourist catalogues to convey the message that exotic sexual adventures can easily be available to tourists during their stay in the country. Brazil's carnival is reportedly a catalyst of sex tourism.

27. Prostitution is blatantly visible in tourist resort areas along the coast, as in the States of Ceará and Rio de Janeiro. One night while driving along Copacabana beach in Rio de Janeiro, the Special Rapporteur, together with educators, were able to verify how widespread the prostitution of young women is. The Special Rapporteur was also shown bars and nightclubs that are known as places for meeting male and female prostitutes. The same was observed in Belém.

### **3. Internet-related crimes**

28. In the current information era, some forms of child sexual exploitation occur through the Internet. The Unit to Prevent and Repress Crimes committed through the Internet, associated with the federal police in Rio de Janeiro (*Núcleo de Prevenção e Repressão de Crimes via Internet, NUNET*) reported that 70 per cent of the Internet-related crimes reported from May 2000 to November 2003 pertained to child pornography. Nevertheless, cases of Internet child pornography reported to the police are decreasing. This is because perpetrators now tend to use e-mail more frequently to exchange material on child pornography. In this way they escape detection by the police. A major obstacle to the investigation of Internet-related crimes is the time lapse between the time the crime is committed, the case is reported to the police and the investigation takes place. This lapse is often too long for crimes based on information technology, as perpetrators of crime all too often have enough time to disappear. Specific legislation is needed to tackle Internet-related crimes more effectively. For instance, the First International Conference on Child Pornography on the Internet held in Salvador in December 2002 suggested, among other proposals, the adoption of legislation requiring Internet providers to register data on their users and keep archives for at least three years.<sup>6</sup>

#### **C. Root causes and contributing factors**

29. Child sexual exploitation converges with other social problems, such as poverty, social exclusion, child labour, gender discrimination, and violence.

30. In the contexts of poverty and social exclusion, organized crime takes advantage of the needy situation of poor families by offering what seems to be a quick way to make money. Representatives of the National Movement of Street Children and Girl children (*Movimento Nacional de Meninos e Meninas de Rua, MNMMR*) reported that “sexually exploited children come from dysfunctional situations which lack social programmes for their reintegration. There is political will but assistance programmes are still insufficient”.

31. According to the Government, out of 177 million inhabitants, 40 million people suffer from hunger, 20 million of whom are in extreme need. Twenty per cent of the population of Rio de Janeiro lives in favelas or slums. In Salvador, the Special Rapporteur was informed about cases involving girls who prostitute themselves for 20 cents.

32. Statistics on child labour for 2001 indicated that 5.5 million children aged between 5 and 17 work. Twenty-two per cent of working children do not attend school. Five hundred thousand girl children aged 5 to 14 perform domestic work.<sup>7</sup> This is an invisible form of child labour that exposes girls to the risk of sexual exploitation.

33. These are scattered examples and data that portray a reality of poverty and social exclusion that exposes children to the risk of sexual exploitation. Both public authorities and NGOs pointed out to the Special Rapporteur how vulnerable poor and socially excluded children are to exploitation by organized crime. “Hungry people are easily recruited by organized crime”, said the General Public Prosecutor of Bahia Aquiles de Jesús Siquara.

34. Sexual abuse often leads to sexual exploitation. ABRAPIA's statistics indicated that 58 per cent of cases of sexual abuse occurred within the family, mainly perpetrated by the father or stepfather. In most cases the perpetrator was known to the victim. When the abuser was the only or main breadwinner, members of the family were reluctant to report the abuse to the competent authorities as it would have put at risk the sole income of the household. These situations often induced victims to leave the family home and end up in the streets or in other precarious conditions that made them vulnerable to CSEC.

35. In addition to intrafamily violence, the rise of violence in society puts children at risk. In Brazil, some 45,000 killings occur every year.<sup>8</sup> Many victims are young people, sometimes children. In the most marginalized areas of the country, such as in the favelas, the State is virtually absent. This vacuum is filled by organized crime and the rule of violence. Only 1 to 2 per cent of the population of the favelas in Rio de Janeiro is estimated to be involved in drug trafficking organized in criminal gangs but the amazing quantity of arms circulating in the favelas and the degree of violence stigmatize the entire population of the favela. Adolescents and youths aged between 13 and 24 are the age group most affected by firearm-related mortality. In 2000, there were 352 homicides of youths under 18 in Rio de Janeiro. The armed response of the police perpetuates this cycle of violence. Officially, a total of 52 children under 18 were killed by the police during police actions in 2001. Vis-à-vis the 12 killings registered in 1998, the increase is of 333.3 per cent.<sup>9</sup>

36. In this context, professionals committed to the protection of children's rights in marginalized areas operate in a highly dangerous and hostile environment. Programmes and NGOs that used to assist street children, including those in CSEC, have had to withdraw educators from the streets because they are threatened by organized crime.

37. Race and ethnicity are determinants of vulnerability to CSEC. Trafficked women and children are mainly Afro-Brazilian, as were the victims being assisted by the many programmes and shelters that were visited by the Special Rapporteur. Stereotypical representations of the young Brazilian woman conveying the message of sexual availability tend to portray Afro-Brazilians.

38. A situation of particular concern is that of indigenous peoples and children. The Special Rapporteur received information on the situation of the 41,000 indigenous people in Roraima. The violation of the right to land of indigenous peoples, constitutionally recognized but not implemented at the state level, is giving rise to violence and a series of further violation of rights. Prospectors (*Garimpeiros*) "invaded" indigenous lands and established their settlements around indigenous villages surrounding them. Their presence inside villages endangers the preservation of indigenous culture and generates violence and exploitation, including sexual exploitation of indigenous children.<sup>10</sup>

39. Gender discrimination is a root cause of sexual exploitation: imbalanced gender relations in favour of men, where power in the family and society is mainly held by men; stereotypical representations of women as sexual objects whose bodies are perceived as commodities at the disposal of men, and uneven share of family responsibilities that in the poorest sectors forces mothers to enter into prostitution to ensure the survival of children, all these are manifestations of gender inequalities that have direct links to sexual exploitation.

40. The Special Rapporteur is concerned about the situation of abortion. Abortion in cases of rape or when the life of the mother is in danger has been legal since 1940. Rape is assumed when the girl is under 14 years of age. Nevertheless, only 44 centres in the whole country provide legal abortion.<sup>11</sup> This forces many women to undergo abortion in secrecy, putting their lives at risk. This is a denial of the right to health of women.

41. Gay, lesbian, bisexual and transgender adolescents are more exposed to violence, especially psychological violence. Hostile reactions by society to their gender and sexuality may leave them alone in a marginalized situation that exposes them to exploitation.

42. A vicious cycle of violence, poverty, exclusion and discrimination perpetuates the violation of children's rights and traps the most vulnerable in sexual exploitation. A mix of macro and micro elements combined with psychological factors contribute to a greater or lesser extent to determining situations of CSEC. In a non-exhaustive list of these macroelements are: (a) society's tolerance or justification of sexual abuse and violation of children's rights at large; (b) social programmes do not incorporate families in extreme situations of poverty and social exclusion; (c) gender relations based on power and abuse of power in favour of men; (d) race and ethnicity as determinants of social exclusion; (e) representation of the body as an object for consumption channelled through media; (f) children starting their sexual life at an early age, and (g) limited opportunities for income-generation activities for adolescents with poor education. Micro elements include: (a) dysfunctional families; (b) broken family ties; (c) school dropout; (d) involvement with socially excluded groups, and (e) the pimp becoming the reference person replacing the vacuum left by the absence of the family. The psychological factors encompass: (a) lack of self-esteem; (b) lack of a plan of life and a future perspective; (c) sense of guilt; (d) indifference to emotions and affection, and (e) internalization of a stigmatized identity.<sup>12</sup>

### **III. LEGISLATION**

43. Brazil has ratified the main international human rights treaties. The compiled initial, first and second periodic reports were submitted to the Committee on the Rights of the Child (CRC) a few days before the visit of the Special Rapporteur in Brazil (CRC/C/3/Add.65). The Portuguese version of the report is available on the Internet.<sup>13</sup>

44. Brazil signed but has not ratified either the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication or the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

45. ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour was ratified but not Convention No. 138 concerning minimum age for admission to employment. Brazil ratified the Inter-American Convention on Conflicts of Law Concerning the Adoption of Minors and the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption.

46. Article 227 of the 1988 Constitution gives absolute priority to children's rights. The 1990 Statute of the Child and Adolescent (*Estatuto da Criança e do Adolescente, ECA*) is a comprehensive act on children's rights. At the time of its adoption, it represented significant advancement in the recognition of children as people with rights. ECA foresees the establishment of an institutional framework to protect children's rights. Thirteen years on from its adoption, several provisions of ECA are yet to be fully implemented.

47. Articles 240, 241 and 244 (a) of ECA qualifies child pornography, and child sexual exploitation as crimes. Articles 240 and 241 were amended in October 2003 to make child pornography on the Internet a punishable offence.

48. Article 231 of the 1940 penal code prohibits the international trafficking of women for prostitution. The definition of trafficking according to article 231 is limited. Firstly, it only considers international and not internal trafficking. Secondly, the only persons identified as potential victims are women. This means that the legislation does not cover trafficking of male adults (male children being covered by ECA) nor male to female transgenders if registered as men. Thirdly, article 231 only considers trafficking for prostitution and not for other purposes.

49. The penal code has some obsolete provisions dating back to 1940. For example, sexual crimes are considered crimes against customs and not against the person. The same applies to the code on penal procedure dated 1941. The Special Rapporteur was repeatedly told that the system to present evidence in the penal procedure in cases of sexual abuse and exploitation is inadequate and favours the perpetrators.

50. Over 50 draft laws on these and other issues are to be discussed by Parliament; these laws mainly concern child pornography, on the Internet in particular, the definition of trafficking, Internet-related crimes and the prohibition of tourist material portraying naked or half-naked women.

#### **IV. ENFORCEMENT MECHANISMS**

51. Cases of CSEC and violation of children's rights at large should be reported to the civil police precinct (*delegacia*), which is responsible for the investigation of the allegations. Victims or people acting on their behalf can also refer to Guardianship Councils (*Conselhos tutelares*), which are responsible for activating the competent services in the judiciary and in relevant sectors, such as health, education and social assistance. If there is sufficient evidence, the police transmit the case to the Public Prosecutor's Office (*Ministério Público*), which is responsible for undertaking public criminal action in courts (*varas*). Article 111 of ECA provides for free legal assistance for children who do not have the means to pay a lawyer, whether they are victims or perpetrators of crimes.

52. This hypothetical procedure for the punishment of CSEC and providing redress in situations of CSEC does not work in many instances. The system for guaranteeing the enforcement of children's rights is not being implemented as it should according to the ECA. Legal professionals, public defenders, public prosecutors and judges, operate in an inefficient institutional environment replete with constraints and dysfunctional elements and also loopholes that lead to pervasive impunity for perpetrators.

### **A. Guardianship Councils (*Conselhos tutelares*)**

53. According to ECA, Guardianship Councils are permanent organs in charge of ensuring the implementation of children's rights. All municipalities should have at least one Guardianship Council. Municipalities are responsible for the creation and functioning of councils, composed of five members elected at the municipal level. The main function of each council is to serve as a reference centre for children and adolescents at risk, including victims of violence and abuse.

54. Thirteen years after the adoption of ECA, there are 3,477 Guardianship Councils representing 5,578 municipalities. At this pace, the ECA's requirement of having at least one Guardianship Council per municipality will only be met in 2011.<sup>14</sup>

55. Lack of resources and the capacities of councillors hamper the proper functioning of many councils. Their politicized nature could also be an obstacle to their functioning effectively.

### **B. The police**

56. The police force is primarily organized at the state level and divided into civil and military police. The military police maintain public order and the civil police investigate criminal offences. Both civil and military police are under the control of the State Governor.

57. The police's lack of capability to investigate crimes against children was repeatedly reported to the Special Rapporteur together with the insufficient resources allocated to improve investigations. Specialized police precincts for the protection of children and adolescents (*Delegacia de Proteção à Criança e ao Adolescente, DPCA*) only exist in the state capitals and in a few other towns while they should also be present in the 494 municipalities that have a population of between 50,000 and 500,000 inhabitants.<sup>15</sup>

58. The Special Rapporteur is concerned about the allegations of corruption of the police and its involvement in CSEC. Allegations point to the police's lack of competence, particularly in human rights, their low salaries, and the involvement of police members or former members in death squads. This clearly raises questions about the exclusive investigative function assigned to the police. There is a risk of the corporate spirit prevailing over the duty of investigating crimes committed by, or involving, the police.

### **C. The Public Prosecutor's Office (*Ministério Público*)**

59. The Public Prosecutor's Office is responsible for undertaking public criminal legal action. In cases of sexual abuse, public prosecutors can proceed ex officio (*ação pública incondicionada*) only if violence leaves marks on the body of the victim (*violência real*). If there are no signs of violence, or *violência real*, the case can be prosecuted upon being reported by parents or those having guardianship of the child victim. This can be an impediment to the reporting of cases as the family could be reluctant to report the perpetrator especially if he or she is the breadwinner of the household.

60. Public prosecutors do not have investigative powers as this is a prerogative of the police. A prosecutor in Pará reported that “the best word to define our situation is one of grief. Grief because we know that we have to try to solve situations in an extrajudicial manner as in the court there is no redress”. Prosecutors who the Special Rapporteur met consistently indicated that investigations could be more effective if prosecutors could have some investigative functions, especially taking into account that the police does not have, and will not have in the near future, the capacity to perform effective investigations. A decision on whether public prosecutors can perform some investigation functions is currently pending at the Federal Supreme Court.

61. The establishment of specialized units for the protection of children and adolescents (*promotorias especializada*) is deemed an important element of more effective resistance to crimes against children. As specialized units should be created concomitantly with specialized criminal courts for the protection of children and adolescents, at present they exist only where these specialized courts are in place, that is six in the whole country.

62. The Special Rapporteur received several reports of the proactive role that public prosecutors can play in the protection of children’s rights. The Public Prosecutor’s Office of Pará had produced a booklet with practical guidelines for the establishment of Guardianship Councils.<sup>16</sup> The Public Prosecutor’s Office of Bahia fines municipalities that do not create Guardianship Councils. This action fostered the establishment of several Guardianship Councils. The Public Prosecutor’s Office of São Paulo forwarded to Parliament a draft law to increase the punishment for crimes of child sexual exploitation.<sup>17</sup> The Public Prosecutor’s Office of the State of Rio de Janeiro created a database on cases of sexual exploitation.

#### **D. The judiciary**

63. According to ECA, specialized criminal courts should be created to deal with crimes against children and adolescents, and these specialized courts should be established in the 494 municipalities with a population of between 50,000 and 500,000 inhabitants. To date specialized courts number only six and only those in Salvador, Fortaleza and Recife are said to work effectively. At this pace, the quota set by ECA will not be met until the year 3640. This projection gives an idea of the inadequacy of the judiciary structure. The creation of specialized courts does not imply an increase in the budget as it is a matter of reorganization of the judiciary at the state level, which depends on the political will of State Tribunals.<sup>18</sup>

64. The Special Rapporteur visited the specialized court of Salvador. Statistics show that since the creation of this court in 1997 delays in judging cases have been reduced enormously. Previously, the delay between the reporting of a case and the decision of the court was 3 to 16 years. In 2002, this was reduced to less than one year in 65 per cent of cases.<sup>19</sup>

65. The creation of specialized courts was repeatedly pointed to as a priority in improving the judiciary and addressing the problem of impunity. In his meeting with the Special Rapporteur, the President of the Federal Supreme Court endorsed this position.

66. The Special Rapporteur believes that the judiciary should be reformed in order to become more efficient. The protection of children’s rights should be given absolute priority as stated in the Constitution. This implies rethinking the way the judiciary is structured and the attitude of

judges, who should have closer contacts with social services and the institutional network of protection. Collaboration with assistance services is particularly important for the gathering of evidence. Children tend to establish closer contacts with psychologists and educators and they are more likely to report their abuses to them than in court, where the modalities of the trial are painful for all victims, even more so for children, who often go through a process of re-victimization.

67. The Special Rapporteur points out that the First Court of Childhood and Youth of Rio de Janeiro is a commendable example of proactive initiatives to bring social justice to marginalized communities. In the framework of the project, Justice in the Communities (*Justiça nas Comunidades*), once a month the staff of the court goes to a favela for one day. They arrive on a bus with basic equipment and they assist some 2,000 people by providing them with basic documents, such as birth certificates, identification cards and work documents. During just one day in the favela the court issues as many birth certificates as it normally would have in two weeks. This shows the importance of making justice physically accessible to marginalized communities. Once a week street children are invited to have lunch with the judge. In addition to the meal, children are provided with a personal hygiene kit and an identification card, which sometimes is the only document they possess. Attention has been given to making the court premises a child-friendly environment. Child victims of sexual crimes are provided with anatomically correct dolls to help them demonstrate the abuse they suffered in a non-traumatic way.

68. The experience of this Court is a best practice that can serve as an inspiring model both within the judiciary and in the design of prevention policies.

### **E. Public defenders (*Defensoria Pública*)**

69. ECA ensures free legal assistance for children who do not have the means to pay a lawyer whether they are victims or perpetrators of crimes. Legal assistance to people without sufficient economic means is also guaranteed under article 134 of the Constitution. To date four States do not have public defenders, including the State of São Paulo.

70. The Special Rapporteur was positively impressed by the work of the public defenders, whom he met in Rio de Janeiro, specializing in the defence of children. Between January and October 2003, 1,347 children victims of sexual crimes were assisted by public defenders. Several initiatives are in place to target children more vulnerable to the violation of their rights. Through the programme, Itinerant Public Defenders, defenders go directly in situ to document crimes against children and gather evidence. A specialized unit assists adolescents who have been detained in DEGASE, where a lot of violence and ill-treatment is said to occur. The regular presence of public defenders contributes to the decrease in reported violence in DEGASE.

71. A major difficulty highlighted by public defenders is the submission of sufficient evidence to reach a conviction. They reported a situation of inverted proportions in terms of cases reported and convictions. Victims' and witnesses' fear explains the high number of anonymous reports (90 per cent), which hampers the adequate collection of evidence.



72. The key role of public defenders for the protection of children's rights is acknowledged at the State level but it needs further recognition from institutions and legal operators at the national level. For instance, public defenders are not represented in CONANDA.

73. While public defenders can sue a state on behalf of a victim for the alleged violation of his or her rights, they cannot file class-action suits on behalf of a group of victims. At present only the public prosecutors and some associations are able to do so. A draft law is currently under discussion to enable public defenders to start class-action suits. This would enable public defenders to act more effectively.<sup>20</sup>

#### **F. A case study: investigation of sexual exploitation in the Amazons**

74. The problems of impunity and the inefficiencies of enforcement mechanisms have already been mentioned in the present report. A case study on 12 cases of sexual exploitation and pornography that occurred in the Amazon region shed light on factors that contribute to the outcome of a case.

75. In the cases analysed, perpetrators were influential people, including representatives or former representatives of the judiciary or public security. This made it even more difficult for victims to report the exploitation. The victims were all girls, frequently approached at school. Only three cases ended in convictions. Social and institutional mobilization was a key element. Only when institutions (public prosecutor, police, Guardianship Council and social services) acted together in a coordinated manner did the matter result in a conviction. The Guardianship Council played a central role in activating competent institutions and services. Teachers and school personnel can play a key role in identifying suspect situations and in alerting the competent services. The attitude of media is another element that can affect the outcome of a case. The study gave examples of the auto-censorship of the local press in not reporting cases of sexual exploitation involving influential people of the community.<sup>21</sup>

### **V. PROGRAMMES AND POLICIES**

76. The remarkable decision of President Luiz Inácio Lula da Silva to make the fight against child sexual exploitation a priority of his Government was an important mobilizing factor at the institutional level. It provided strong backing for organizations and institutions that work on CSEC at different levels and sectors.

#### **A. Institutional action**

77. At the governmental level, the Ministry of Justice is responsible for coordinating Government action on sexual exploitation through the Inter-sectoral Commission to Fight Child Sexual Violence. The Commission was created in May 2003 and it is composed of several ministries (tourism, education, health, culture, social assistance, foreign affairs, labour and human rights).

78. The Ministry of Justice implemented a pilot project on the prevention of trafficking of human beings. The project was implemented in four States (Ceará, Goiás, Rio de Janeiro and São

Paulo) and aimed to promote better coordination of institutions working to eliminate trafficking.<sup>22</sup>

79. In June 2003 the Parliament Mixed Commission for the Investigation of violence and sexual exploitation of children and adolescents (CPMI) was created. The Commission works on several fronts. It investigates emblematic cases. It analyses the legislation with a view to amending inadequate laws and filling existing gaps. Public policies are being analysed to assess their impact, identify good practices and suggest other measures that could be taken.<sup>23</sup>

80. In a few months the Commission succeeded in raising the visibility of CSEC. The Special Rapporteur also noted the credibility enjoyed by the Commission among institutions, NGOs and operators in the area of CSEC. The Commission is regarded as an institution of high profile with mobilization potential.

### **B. The National Plan to Fight Sexual Violence against Children and Adolescents**

81. The policy framework for programmes to fight CSEC in Brazil is the National Plan to Fight Sexual Violence against Children and Adolescents. The plan was adopted in 2000 through a participatory process. It foresees action around six strategic axes: diagnosis; mobilization and coordination; defence and accountability; assistance; prevention; and child participation. States and municipalities had to adopt state plans using the National Plan as the frame of reference. To date, seven States have not adopted a plan. Three hundred and thirteen municipalities have a municipal plan linked to the implementation of the Sentinel programme.

82. The National Committee to Fight Sexual Violence against Children and Adolescents was created to monitor the implementation of the plan. The Committee is composed of 13 members representing civil society, children's organizations, public authorities and international organizations. State focal points and municipal networks monitor the implementation of state and municipal plans. Regional coordinators ensure the monitoring of another level of this network.

### **C. Coordination**

83. One of the main challenges for the effective implementation of the National Plan is coordination between institutions working in this area. Vertical coordination for filtering policy down from the federal, state and municipal levels, to the grass-roots level, is a demanding effort in a country as large as Brazil.

84. Horizontal coordination across the different sectors is equally challenging as it requires overcoming the dominant sectoral mentality of professionals used to work in their own domain, be it health, justice, education, social assistance, human rights or tourism. The benefits of horizontal coordination and integration, though, are tangible at the grass-roots level. As pointed out earlier on, the case study on the Amazon region identified the coordination of institutions as a key element in achieving the conviction of perpetrators.

85. The institutional framework set up to monitor the implementation of the National Plan and the Inter-sectoral Commission to Fight Child Sexual Violence foster vertical and horizontal coordination, respectively. Other initiatives are being developed.

86. The project on integrated actions to fight sexual violence in Brazil (*Projeto de Ações Integradas Referenciadas de Enfrentamento à Violência Sexual Infanto-juvenil no Território Brasileiro, PAIR*) is a pilot project to promote coordination between institutions working on sexual violence and exploitation of children in seven municipalities in seven states. The project, launched by the federal Government, aims to identify and strengthen the local capacity to address CSEC. Lessons learned and good practices identified in this pilot project will be the basis for a broader national strategy to promote a coordinated approach to child sexual exploitation.

87. The centralization within the secretariat of the Special Secretary on Human Rights of the hotline on violence, sexual abuse and exploitation of children and adolescents in May 2003 is aimed at improving coordination between competent institutions activated by SEDH. Since May, the hotline received nearly as many reports as the previous one administered by ABRÁPIA did in six years. The idea is to extend the scope of the hotline for the receipt of reports of human rights violations. This would further enhance institutional integration as a larger spectrum of institutions would be called upon for action to redress human rights violations. A centralized hotline for human rights violations would also serve as a strategic tool for human rights mainstreaming.

#### **D. Prevention**

88. The Special Rapporteur visited government social assistance programmes to gather information on national policies to reduce poverty and social inequalities.

89. As of October 2003, the Government unified social programmes on income transfer into the Family Grant programme (*Bolsa Família*). The centralization aims at avoiding the duplications generated by the previous programmes (e.g. School Grant and Food Card) and to focus on the family. Families assisted by the programme can receive up to 95 reales per month. In November 2003, there were 1,150,000 families assisted by the programme. By 2006 the programme intends to reach 11.4 million families to cover the 40 million people who are estimated to live in poverty.

90. The Zero Hunger Programme aims at promoting food and nutritional security for all Brazilians. Fighting hunger is a priority of President Luiz Inácio Lula da Silva. In addition to the Food Card mentioned above, at present the programme is implementing 72 local economic development initiatives. One of the achievements of the programme is the social mobilization and solidarity initiatives generated, with many small and large scale donations having been received from individuals and multinationals.

91. Other governmental social assistance programmes are the First Job Programme (*Primeiro Emprego*) and the Programme to Eradicate Child Labour (PETI). Launched in 1996, PETI has constantly increased the number of children assisted (749,000 in 2001).<sup>24</sup> The aim is to remove children aged from 7 to 15 from work considered to be dangerous, heavy, unhealthy or degrading. One of these worst forms of child labour is sexual exploitation. The Special Rapporteur received no information on whether and to what extent PETI extended to children involved in CSEC.

92. A recent initiative that deserves attention is the launch of the Teacher's Guide for the identification of signs of abuse and sexual exploitation of children (*Guia Escolar, Métodos para identificação de sinais de abuso e exploração sexual em crianças e adolescentes*) issued in 2003. Teachers can play a key role in preventing sexual abuse and alerting competent services. Schools are present in all the territories. Enhancing the ability of teachers to deal with sexual abuse and exploitation is a strategic method of approaching large numbers of children. Initiatives for the promotion of the Teacher's Guide are progressing.

93. The Struggle for Peace (*Luta pela Paz*) programme of the NGO *Viva Rio* organizes boxing championship competitions for youths of the favelas. It is a creative initiative to attract youths to social participation, education and integration activities.

### **E. Assistance**

94. Assistance is the area on which there has been most focus. Many programmes and projects operate in this area. The Special Rapporteur visited several assistance projects and received a lot of information. Only a few of those projects are reflected in this present report as illustrative examples. The Special Rapporteur would like to acknowledge the dedication of the people working in assistance programmes; they provide an invaluable support to children.

95. An emblematic example is the case of Adriana, an 18-year-old girl whom the Special Rapporteur met in Belém. Adriana was in a situation of sexual exploitation and was rescued by the *Movimento República de Emaús* social programme, which repairs and sells used dolls. Today, Adriana works as an educator in the same programme that gave her a new outlook: "Now I do not exchange my body for money, I get money for the body of a doll".

96. In 2001, the Government launched the Sentinel Programme to provide children and their families in a situation of sexual violence with social services. Every month during 2002 the programme assisted over 34,000 children and their relatives. The programme is present in 315 municipalities and 350 other municipalities have requested it. The target is to establish it in 850 municipalities by 2007. The idea is for the programme to be not only a centre for assistance but also a catalyst for other initiatives. An evaluation of the programme is currently under way.

97. The project "Workshop of Life" (*Atelier da Vida*) implemented by the Group of Women Prostitutes in Pará (GEMPAC/PA) promotes youth reintegration and participation through art. Adolescents aged between 14 and 17 living in situations of risk, including victims of sexual exploitation as well as prostitutes' children, participate in courses and artistic activities, such as theatre, dance, and music.<sup>25</sup>

98. The municipal shelter *Vovó Ilza* in Sao Paulo assists child mothers and their children. The shelter is a community in which decisions and rules are determined through a participatory process aimed at the emancipation of girls and their children.

99. The Camará Project in Sao Vicente created a space for the participation by youths who are from low-income situations, but not necessarily victims of violence. Adolescents participate in the decision-making process, including the design of projects on the activities of the community. Activities range from psychological support to income-generation activities.

100. Most of the children assisted by these programmes are victims of sexual abuse.<sup>26</sup> The challenge ahead is to approach and assist girls and boys involved in CSEC.

## **VI. CONCLUSIONS**

101. A democratic society cannot tolerate poverty, inequalities and the unjust conditions in which many children and girl children live. Sexual exploitation and trafficking of children are some of the worst forms of violence generated by poverty, social exclusion and gender discrimination. They deny many children of a future and break the social fabric. The foremost challenge is for public policy to break this cycle of social exclusion, the black holes of Brazilian society that the State and basic social services do not reach, where people survive on a daily basis without hope for the future in conditions that generate new forms of violence. The “captains of the sands”, street children as portrayed by Brazilian novelist Jorge Amado years ago, are not captains anymore but pawns in the hands of organized crime.

102. The political commitment of the Government to fight child sexual exploitation is strong and tangible. President Luiz Inácio Lula da Silva’s decision to make it a priority of his Government is unprecedented in the history of Brazil. This decision gave prominence to the challenges posed by child sexual exploitation and provided strong backing to organizations and institutions that work on children’s rights.

103. Brazilian civil society is very dynamic. Social mobilization on CSEC is remarkably strong.

104. The input of the State is essential in breaking the vicious cycle of violence that perpetuates violations of children’s rights and exposes them to the risk of sexual exploitation. Where the State and institutions are present, the level of violence decreases. The role of the State is of primary importance in fighting forms of sexual exploitation linked to organized crime.

105. The institutional framework and the system of guarantees foreseen by ECA remain, to a large extent, unaccomplished. Over a third of the municipalities do not have Guardianship Councils in place. Many of the existing councils do not have adequate resources and capacity. This is a major problem as the councils are the cornerstone of the framework of protection of children’s rights set up by ECA.

106. A pervasive sense of impunity was expressed by all actors and institutions contacted. The existing enforcement mechanisms are inefficient and replete with constraints and dysfunctional elements. The establishment of specialized criminal courts for child victims of crimes together with specialized units of the public prosecutor’s service and specialized police precincts for the protection of children and adolescents is deemed a fundamental measure to fight impunity. The positive example of the existing specialized courts confirms this position.

107. Education is a strategic area with a lot of potential to fight CSEC. Gender-sensitive curricula can contribute to changing stereotyped representations of gender relations. Sensitized teachers and school professionals can play a key role in alerting competent

services on suspected cases of sexual violence. The school is the first trench for warding off social disintegration. After the family, the school is the primary place for engendering the child's feeling of belonging. Belonging and participation are fundamental experiences for children to learn to respect themselves and others.

108. The policy framework for fighting CSEC is in place. Several programmes at the national and grass-roots level are aimed at addressing child sexual exploitation from different angles. Filtering policies and programmes from the central, federal level down to the grass-roots level is a major difficulty.

109. Several programmes are still in the initial stages of their implementation. At this stage, it is not possible to assess their impact. In any event, the decision to act on prevention, vertical and horizontal coordination and education is strategic and should yield results.

110. The focus of programmes at the grass-roots level is mainly on assistance and far less on the other areas of action of the National plan to fight sexual violence against children and adolescents, namely prevention, defence and accountability and child participation.

111. Most children - girls and boys - supported by assistance programmes are victims of sexual abuse and very few are victims of sexual exploitation. The challenge ahead is to effectively reach children and adolescents involved in CSEC.

112. The existing system of juvenile detention centres generates conditions that increase the vulnerability of adolescents to sexual abuse and exploitation. This system does not comply with its original socio-educational objectives.

## **VII. RECOMMENDATIONS**

113. The full implementation of ECA should be given priority. In particular:

(a) Guardianship Councils should be established in all municipalities as a matter of priority. Strategies should be envisaged to ensure that they act in their technical capacity and not as politicized bodies; and

(b) Specialized criminal courts for child victims of crimes, together with specialized units of the public prosecutor's service and specialized police precincts for the protection of children and adolescents should be established. These institutions should be equipped with socio-psychological assistance and a child-friendly environment.

114. Strong signals should be sent that impunity will have to end. This is especially imperative for institutions on the front line such as the police and the judiciary.

(a) A process of institutional reform should transform the police into an institution with a social role in the protection of human rights. The reform of the police should envisage capacity-building programmes, at the federal and state levels, on human and children's rights;

(b) The judiciary, including its highest courts, should simultaneously engage in a debate on its reform based on a children's rights perspective. The judge should have an active social role in the protection of children's rights and be part of the protection network of his or her community. Examples of proactive initiatives to bring social justice to marginalized communities such as those implemented by the First Court of Childhood and Youth of Rio de Janeiro (*Primeira Vara da Infância e da Juventude*), should be acknowledged and replicated as part of efforts to reform the judiciary; and

(c) Other initiatives could be envisaged for strengthening the institutional commitment to end impunity, such as the establishment of working groups at the municipal and state levels with the participation of respected and vocal institutions and individuals.

115. The Public Prosecutor's Office should have some investigative powers that are explicitly recognized.

116. Public defenders should be present in all states and be equipped with adequate resources. More recognition should be given to the key role played by public defenders in the protection of children's rights. The Government should consider the possibility of enabling public defenders to start class action suits against a state for the alleged violation of the rights of a group of persons.

117. The trafficking routes identified in the PESTRAF national study (see para. 22) and other alternative routes should be monitored and dismantled. Results in this area should be made public.

118. The Special Rapporteur expresses his concern about the allegations of ill-treatment of adolescents detained in juvenile detention centres (*DEGASE*). He recommends that the Government intervene as a matter of urgency to reform the juvenile detention system and ensure that the conditions of detention for juvenile offenders comply with international standards and that their human rights are respected. Juvenile detention centres should be transformed into services for the re-education, rehabilitation and reintegration of adolescents.

119. Brazil should ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography as well as the basic measures needed for their prevention and eradication and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention against Transnational Organized Crime.

120. The adoption of new legislation should be considered in regard to the following issues: (a) adoption of a larger definition of trafficking; (b) recognition of sexual crimes as being against the person and not customs; and (c) adoption of legislative measures to fight Internet-related crimes. Amendments to legislation should be considered in order to enable prosecutors to proceed *ex officio* in cases of sexual violence (*ação pública incondicionada*).

121. Strategies should be envisaged to focus more on the areas of the National plan to fight sexual violence against children and adolescents where there has been less achievement, namely prevention, defence and accountability, and child participation.

122. Renewed efforts are needed to effectively address child sexual exploitation and not limit the bulk of actions to assistance programmes that target mainly victims of sexual abuse and very few children involved in sexual exploitation. Multidisciplinary strategies should be identified for the design of actions that would impact on child sexual exploitation. New actors, including the business sector, should be involved in this effort. For instance, soccer clubs present in every territory, together with their sponsors, could be involved in preventive actions.

123. The Special Rapporteur believes that addressing the root causes of sexual exploitation is essential to fighting this problem. He recommends that the Government strengthen social programmes aimed at the reduction of poverty and social inequalities and assess their impact with indicators related to children's rights.

124. The Special Rapporteur recommends that the Government focus on education as a strategic weapon in the fight against child sexual exploitation. Tools such as the Teachers' Guide for the identification of signs of abuse and sexual exploitation of children should be promoted together with capacity-building programmes for teachers and school professionals. Teachers should be in a position to perform a social role in the community to support the family in the early detection of sexual abuse and exploitation or school dropout. The school infrastructure itself can be used for specific activities, during weekends for instance. School curricula should include sexual, as well as children's rights education and practical notions on how to make use of the system of protection offered by ECA.

125. Efforts to promote horizontal and vertical coordination of institutions, policies and programmes should continue.

126. The gender dimension should be mainstreamed in all policies and programmes on CSEC. In particular, measures should be taken to change the stereotypical representation of a woman's body as a commodity. The spheres of tourism and the media are priority sectors to be targeted.

127. The right to abortion in the cases foreseen by the law should be fully guaranteed throughout the country. Hospitals should be adequately equipped to provide child and women victims of rape with medical, psychological and social assistance.

128. The Government should guarantee respect for the rights of indigenous peoples, especially the right to land, which is essential for the preservation of the culture of indigenous peoples. The respect of indigenous culture is essential in preventing situations that result in sexual abuse and exploitation of indigenous peoples and children.



129. **The Government is encouraged to seek international technical cooperation in areas in which international organizations can bring a value added. The Special Rapporteur hopes that this report would contribute to further action to fight child sexual exploitation and encourages public authorities, NGOs, international organizations and other actors committed to the promotion of children's rights to use this report as an instrument of work.**

### Notes

<sup>1</sup> *Human Development Report, 2003*, UNDP, p. 62, [www.undp.org/hdr2003](http://www.undp.org/hdr2003)

<sup>2</sup> See [www.abrapia.org.br](http://www.abrapia.org.br)

<sup>3</sup> Leal M.L., Leal M.F., PESTRAF - Study on trafficking in women, children and adolescents for commercial sexual exploitation, conducted in Brazil, Brasilia, 2003.

<sup>4</sup> Ibid., pp. 51, 57, 61, 66-71 and 107.

<sup>5</sup> EMBRATUR, Anuário Estatístico EMBRATUR, Vol. 30 - 2003, pp. 13 and 16, [www.brasil.embratur.gov.br/](http://www.brasil.embratur.gov.br/)

<sup>6</sup> Primeira Conferência Internacional sobre Pornografia Infanto-Juvenil na Internet, 2002.

<sup>7</sup> IBGE, Trabalho infantil 2001, Pesquisa nacional por amostra de domicílios, Rio de Janeiro, 2003.

<sup>8</sup> Information provided by the Centre of Reference and Support to the Victim (Centro de Referência e Apoio à Vítima, CRAVI).

<sup>9</sup> Dowdney L., Children of drug trade, Rio de Janeiro, 2003, pp. 164-168.

<sup>10</sup> Conselho Indígena de Roraima, Terra Indígena de Raposa Serra do Sol, Cinco anos a espera da homologação, Roraima, 2003.

<sup>11</sup> Information provided by the Fundação Santa Casa da Misericórdia do Pará.

<sup>12</sup> Coimbra Libório R.M., "Contextualizando a exploração sexual comercial de adolescentes no interior do Estado de São Paulo", 2003, pp. 12-15.

<sup>13</sup> See [www.mre.gov.br/dhs.htm](http://www.mre.gov.br/dhs.htm)

<sup>14</sup> CPMI, Relatório para ONU da Comissão Parlamentar Mista de Inquérito que investiga as situações de violência e redes de exploração sexual de crianças e adolescentes no Brasil, November 2003, pp. 29-31.

<sup>15</sup> Ibid., pp. 19-20.

<sup>16</sup> Ministério Público do Estado do Pará, Fazendo valer o ECA, Roteiro prático para instalação do Conselho Tutelar, 2001.

<sup>17</sup> Ministério Público do Estado do São Paulo, Relatório produzido para o Relator Especial da ONU, São Paulo, 2003, p. 10.

<sup>18</sup> CPMI, Relatório, op.cit., p. 17.

<sup>19</sup> Barbosa H., Políticas públicas multisetoriais no enfrentamento e na formulação de políticas da exploração sexual ([www.cjf.gov.br/Pages/Sen/eventos/crianca/crianca.asp](http://www.cjf.gov.br/Pages/Sen/eventos/crianca/crianca.asp)).

<sup>20</sup> Defensoria Pública do Rio de Janeiro, Relatório de actividades, November 2003.

<sup>21</sup> Movimento República de Emaús Txai, Resolubilidade em casos de exploração sexual de crianças e adolescentes na Amazônia, October 2003.

<sup>22</sup> Ministério da Justiça, Programa de enfrentamento à exploração sexual infanto-juvenil, November 2003.

<sup>23</sup> CPMI, Relatório, op.cit.

<sup>24</sup> Brazil's compiled initial, first and second periodic report to the Committee on the Rights of the Child, 2003, p. 128.

<sup>25</sup> GEMPAC/PA, Relatório Técnico Projeto Atelier da Vida, Período Agosto 2002 a Agosto 2003.

<sup>26</sup> For example, in 2003, only 7 per cent of children assisted by the Sentinel Programme in São Paulo are victims of CSEC.

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