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增进和保护所有人权、公民、政治、经济、
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买卖儿童、儿童卖淫和儿童色情制品问题
特别报告员胡安·米格尔·佩蒂特的报告

增 编

对墨西哥的访问 *

* 本报告的内容提要以所有正式语文分发。报告本身附于内容提要之后，仅以英文和西班牙文分发。

内 容 提 要

买卖儿童、儿童卖淫和儿童色情制品问题特别报告员于 2007 年 5 月 4 日至 15 日访问了墨西哥。特别报告员造访了下列地方：Guadalajara(Jalisco)、Tijuana(Baja California)、Ciudad Juárez(Chihuahua)和联邦特区。特别报告员要感谢墨西哥政府给予的合作与协助，还要感谢联合国人权事务高级专员办事处(人权高专办)。在联邦、州和市各级，特别报告员拜会了若干负责执法和保护儿童的部门，会晤了社会发展部代表、外交部副部长、全国家庭全面发展体系负责人及各人权委员会代表。

特别报告员实地探访了街头及酒吧、夜总会和被认为具有社会风险的地区(暴力犯罪猖獗的社区、边界地区、有非法性交易场所的市场)的儿童境况。他还访问了一些受剥削和虐待儿童照管中心，观察了保护未成年人的种种社会服务的情况。

本报告分析了联邦和所访问各州的法律框架。然后，讨论了政府和民间团体实施的各项方案和政策。特别报告员认为这些方案和政策有助于打击对儿童进行商业性剥削的行为。报告随后介绍了为落实该国的儿童问题总战略所采取的各项措施以及负责惩治有关罪行的各个当局。特别报告员接下去比较了所访问的每个城市的情况。应指出的是，虽然对儿童进行商业性剥削的动因在大多数地方都差不多，但这一现象的表面特征以及各州政府和市政府及民间社会的反应却因地方而有所不同。

最后，特别报告员提出了一些可适用于墨西哥各种不同情况的建议，以求对民间社会产生更大的影响。必须采取更有力和更有创意的行动来打击对儿童进行性剥削的行为；必须协调各项法律，各执法当局之间的配合也必须加强，同时还须为消除这一现象增拨资源。应铭记的是，对儿童进行商业性剥削并非孤立的事件，必须同时致力于消除有罪不罚的现象和打击有组织犯罪。

Annex

**REPORT SUBMITTED BY THE SPECIAL RAPPORTEUR ON THE SALE
OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY,
JUAN MIGUEL PETIT, ON HIS MISSION TO MEXICO**

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Introduction

1. At the invitation of the Government of Mexico, the Special Rapporteur on the sale of children, child prostitution and child pornography visited Mexico from 4 to 15 May 2007. The Special Rapporteur visited the following places: Guadalajara (Jalisco), Tijuana (Baja California), Ciudad Juárez (Chihuahua) and the Federal District to study the problem of the commercial sexual exploitation of children in Mexico.
2. The Special Rapporteur expresses his thanks for the cooperation and assistance extended to him by the Government of Mexico in particular the National System for the Comprehensive Development of the Family, at the federal, State and municipal levels, which enabled him to meet with representatives of many official and non-official sectors in all places visited and to obtain the necessary information and documentation to be able to draft this report and report to the Human Rights Council in an objective and impartial manner.
3. The Special Rapporteur expresses his deep appreciation to the representative of the Office of the United Nations High Commissioner for Human Rights for his substantive contribution to the success of the visit, and to officials of the United Nations Development Programme (UNDP) for their logistical support. The Special Rapporteur is also grateful for the information, documentation and assistance provided by the International Labour Organization (ILO) and the United Nations Children's Fund (UNICEF) in Mexico in the preparation and conduct of his mission. Lastly, the Special Rapporteur wishes to thank the United Nations Information Centre in Mexico for its efficient coordination with the media during his visit.
4. During his mission, the Special Rapporteur met at federal level with the Ministry of Social Development, the Under-Secretary for Multilateral Affairs and Human Rights of the Ministry of Foreign Affairs and with the head of the National System for the Comprehensive Development of the Family. He also met with high officials of procurators' offices of the federal judicial system, the Ministry of Social Development, the Ministry of Public Security, the Office of the Attorney General and with several members of Congress. In addition, at the State and municipal levels, the Special Rapporteur met with high-level officials of procurators' offices of the States and municipalities that he visited, representatives of the National Human Rights Commission and the Human Rights Commissions of several States as well as law enforcement and child protection officials.
5. The Special Rapporteur conducted on-site investigations in all the places he visited in order to observe for himself the situation of children on the streets and in areas of high social risk, bars and nightclubs. He also received, privately and confidentially, direct testimonies from victims and their families. In addition, he visited a number of child reception and assistance centres and met with child victims of exploitation and abuse.
6. The Special Rapporteur decided to visit Mexico as a follow up to the visit by the mandate-holder in 1997,¹ to observe how Mexico is implementing democratic change, which is giving rise to a very rich process of policy reform and structural transformations and generating

¹ See E/CN.4/1998/101/Add.2.

new areas for citizen participation. In view of the importance of children's policies, the Special Rapporteur was interested in initiatives that might have been adopted to combat existing problems by the federal Government and state governments and non-governmental organizations (NGOs) since the mandate-holder's last visit to Mexico in 1997.

In the present report, the situation relating to each city will be treated separately, bearing in mind that, while the causes of the commercial sexual exploitation of children are similar in most places, the characteristics of the phenomenon, as well as the responses of state and municipal governments and civil society, can vary considerably.

I. LEGAL FRAMEWORK AND MEASURES TO PROTECT CHILDREN'S RIGHTS

A. Federal legal framework

7. The prohibition and punishment of the commercial sexual exploitation of children² is mostly covered by articles relating to the corruption of minors, defined as "the inducement to dishonest lifestyles that result in the moral and physical degradation of the child"; and to *lenocinio*, defined as "the purposeful or incidental exploitation of the body of another person through the flesh trade". Articles 17, 21 and 102 of the Mexican Constitution state that activities relating to the sale or trafficking and prostitution of minors, as well as child prostitution, shall be subject to investigation and punishment.

8. The measures adopted to protect children against all forms of exploitation and sexual abuse are listed in Book Two of the Federal Criminal Code, Title VIII (Crimes against the free development of the personality), where the corruption of minors and child pornography are classified as crimes. Similarly, article 203 punishes anyone who through any means, encourages, advertises for, invites, facilitates or arranges for, a person or persons to travel within or outside the national territory for the purpose of having sexual relations with minors under 18 years of age. Punishment for the offences of corruption of minors and child pornography is increased when such offences are committed by public officials. Similarly, punishment varies in accordance with the age of the minor against whom the crime is committed.

9. Article 366, II, (e), of the Criminal Code prescribes a prison sentence of 25 to 50 years for trafficking in minors. This article is related to the new Federal Law against Organized Crime, article 2 (V) of which refers to trafficking in minors as a serious offence when it is carried out by persons who are members of a criminal organization; this offence is punishable by 4 to 16 years' imprisonment.

² *Estudio Jurídico Penal relativo a la expotación sexual commercial infantil: Bases para su unificación legislativa en Mexico*, jointly published by the Ministry of Labour and Social Security, ILO-IPEC and INACIPE, Mexico City, 2005.

10. Article 173 of the Federal Labour Act states that work carried out by any person between the ages of 14 and 16 shall be subject to monitoring and protection by labour inspectors. Article 175 of the Act prohibits the employment of minors under 16 years of age in places where alcoholic drinks are served or where their morality may be affected.

11. In February 2007, the Federal Congress adopted a decree³ amending, supplementing or repealing certain provisions of the Federal Criminal Code, the Federal Code of Criminal Procedure and the Federal Law against Organized Crime, relating to the sexual exploitation of children. This reform not only increases penalties for some offences previously provided for (such as the corruption of minors under 18 years of age), but also for the first time classifies offences such as sex tourism involving persons under 18 years of age, all forms of child pornography, trafficking in persons under 18 and procuring of persons under 18 as serious offences. Under this reform, penalties are increased when the offences are committed by family members, guardians, public officials, teachers, members of the clergy, among others. A substantial change is the recognition that, if any of these offences are committed, in addition to being a flagrant violation of the Convention on the Rights of the Child, they are considered an offence against the free development of the personality of persons under 18 years of age, rather than an affront to public morals and decency, as previously stipulated.

B. Specific legal framework in the States visited

12. 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”, carrying a penalty of between 1 and 15 years’ imprisonment, with aggravating circumstances for each case. In the case of the prostitution of a group of minors, for example in brothels, the penalty can be up to 40 years’ imprisonment, in addition to the imposition of fines and the complete and permanent closure of premises. The prostitution of a minor by another minor is not regarded as a criminal offence but as a “lack of discipline”, which requires the rehabilitation of the minor in a juvenile correctional institution, unlike child victims of commercial sexual exploitation who are referred to separate institutions for rehabilitation and care, such as children’s homes and shelters operated by NGOs. One concern that was also raised during discussions was the need to amend the Criminal Code in order to make it possible to file a complaint on behalf of the child without parental consent. Mention was also made of the need to bring national legislation on child pornography into line with that of other countries.

13. In the State of Baja California, under articles 261 to 281 quater of Title III, Chapter I (Crimes against the State), the corruption of minors carries a penalty of a fine and six months’ imprisonment. In articles 264 to 266 of the same chapter, the exploitation of child prostitution carries a prison sentence of 8 to 21 years, a fine equivalent to US\$ 500 to US\$ 20,000 and the permanent closure of the premises.

³ Decree amending, supplementing or repealing certain provisions of the Federal Criminal Code, the Federal Code of Criminal Procedure and the Federal Law against Organized Crime, relating to the sexual exploitation of children, *Official Gazette*, 27 March 2007.

14. Articles 182 and 183 of Title VI of the Criminal Code of the State of Chihuahua, which deals with offences against the development of the personality, prescribe a penalty of six months' to three years' imprisonment for corruption of a minor and a fine equivalent to 300 to 1,000 days' wages. Article 201 prohibits procuring, while article 184 criminalizes child prostitution, prescribing a prison sentence of between 1 and 10 years and a fine equivalent to between 50 and 5,000 days' wages.

15. In 2007, the Criminal Codes of the States of Baja California, Chihuahua and Guerrero were amended. Prostitution, pornography, sex tourism and trafficking for the purpose of the sexual exploitation of children and adolescents were included and made punishable as serious offences. However, it is noteworthy that only 5 of the 32 Mexican States have specifically criminalized offences against minors, which in practice seriously weakens federal laws.

II. EXAMPLES OF PROGRAMMES AND POLICIES

A. State programmes and policies

16. The National System for the Comprehensive Development of the Family (DIF) is the principal government organization dealing with children; through 32 State DIFs, it attempts to build capacity at the local level through child protection programmes. DIF was established in the 1930s to care for abandoned children in cities. It develops national child protection policies, as well as intervention and rehabilitation strategies for child victims. Its preventive strategies place emphasis on family integration as the core element in its programmes, since the main reason for the high number of street children in Mexico has been attributed to family disintegration. For this reason, DIF advocates that the legislative review process of provisions relating to children must be accompanied by a campaign to raise Mexican society's awareness of children's rights. In addition, the relevant legislation must be accessible to families at the local level in order to ensure the effectiveness of child protection. The empowerment of the family is considered to be the most effective tool for preventing child exploitation and abuse.

17. DIF in the Federal District has established a telephone hotline so that incidents of child abuse can be reported to qualified staff, who then send social workers to evaluate the situation. DIF also provides free legal assistance to families who require it and it is considering the possibility of providing psychological and educational support to families and vulnerable groups. In its dialogue with the Special Rapporteur, DIF noted that its biggest challenge was to obtain more concrete statistics on children in difficult circumstances in Mexico, in addition to expanding its programmes in rural and indigenous areas.

18. In this respect, the Special Rapporteur was informed that UNICEF has no programmes that specifically address the issue of the commercial sexual exploitation of children in Mexico. Many of its programmes deal indirectly with the issue,⁴ such as programmes to eliminate domestic violence, increase social mobilization through the media, provide assistance to street children, etc.

⁴ Elena Azaola, *Infancia robada: Niñas y niños víctimas de explotación sexual en México*, jointly published by DIF/UNICEF/CIESAS, Mexico City, 2003.

19. In 2001, the National Coordination Committee to Prevent, Address and Eradicate the Commercial Sexual Exploitation of Children was established; it is headed by DIF. Under the Committee, 32 institutions, including most notably the National Human Rights Commission, are participating in the development of a national action plan to deal with the problem. This inter-agency committee operates through five subcommittees: coordination of efforts; prevention; care; legal protection and defence of children's rights; and investigation.

20. Mention should also be made of the Programme to Prevent, Address and Eradicate the Commercial Sexual Exploitation of Children, under the National System for the Comprehensive Development of the Family. Its purpose is to promote systematic policies and actions to prevent the commercial sexual exploitation of children and adolescents and to provide care and protection for victims of, or persons at risk of becoming victims of, such exploitation, with the participation of the three branches of government, public and private institutions and civil society organizations at the national and international levels. They operate in 71 cities in 18 Mexican States that are experiencing a high incidence of this phenomenon. In addition, it submits quarterly and biannual reports on action taken in States where the Programme operates, and provides advisory services and follows up on action taken by each of the 18 States. The National System for the Comprehensive Development of the Family also has a national children's rights programme, entitled "National Network of Child Promoters", through which children learn about their rights and in which their active participation is promoted.

21. The Special Rapporteur welcomed the fact that there is an Office of the Special Prosecutor for Investigating Offences Related to Acts of Violence against Women (FEVIM) within the Office of the Attorney General. The Office of the Special Prosecutor was established in 2006 by the executive, bearing in mind the interests of various bodies and organizations, such as the academic community, civil society, parliamentarians and the commitment of women and men to fully respecting human rights.

22. FEVIM had its beginnings when irregularities were detected in Ciudad Juárez (Chihuahua). The Attorney General held talks with the special commissions of the Chamber of Senators and the Chamber of Deputies with a view to ensuring that there was no recurrence, for any reason, of unpunished violence against women in Mexico, as had been the case in Ciudad Juárez. This led women from the academic community, women politicians and feminists to consider the subject of violence against women in Mexico and to promote an instrument that would deal with this problem.

23. 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 by involving children themselves in such activities. With regard to training by and for children, the National Human Rights Commission has the objective of raising awareness of the human rights of women, children and the family from a gender perspective, and of the best interests of children, by carrying out training programmes that create a culture of respect for their rights and make it possible to ensure that such rights are observed every day in the family and society in general. The Special Rapporteur has welcomed the idea of using children both as a means and an end in the promotion of human rights, and hopes that this activity will continue to be promoted.

24. The Special Rapporteur also visited the “Casa del Árbol” (Tree House), a project developed in 1996 by the Human Rights Commission of the Federal District, in which children have an opportunity to learn about their rights and express and protect them. The Special Rapporteur was very impressed by the innovative teaching methods and the materials used in this “Casa del Árbol” and encourages the establishment of similar centres in all States. The Human Rights Commission of the Federal District goes out into the streets and works with children, teaching staff, fathers, mothers, and public service workers who are involved in any way with children. The activities of “Casa del Árbol” - and the number of persons that it reaches - are increasing every year. Children learn about their rights through different and original teaching activities. They also have “outside” work, which takes them to communities in which violence frequently occurs, or to communities that do not have access to the Commission. The Human Rights Commission of the Federal District has also developed a model for the prevention of the ill-treatment and abuse of children, through which it publishes materials, such as a booklet on the prevention of the commercial sexual exploitation of children, which has been distributed in more than 900 secondary schools. Lastly, it should be pointed out that educational models, such as the diploma course on human rights and violence against children and adolescents, which is currently offered by the Human Rights Commission of the Federal District, have been developed.

25. The Special Rapporteur wishes to put on record his positive impression of the work being carried out by the Office of the Federal District Procurator, which informed him that measures are slowly being taken to make cases of abuse of minors more visible, and people are beginning to report cases of sexual exploitation. According to some recent cases, members of the Procurator’s Office told the Special Rapporteur that they were convinced that a slow process to halt the activities of criminal organizations was getting under way; they said that, “in order to end impunity, it is essential for people to feel close to the Procurator’s Office and to have faith in its honesty and capability”. “We are just beginning to discover the extent of child prostitution and trafficking in minors. We must fight against existing corruption and increase awareness of this issue, so that citizens feel that it is their duty to report these atrocious violations of children’s dignity. If there is no confidence, there are no reports, and if there are no reports, there are no investigations”, they said.

B. Civil society initiatives

26. Programmes are also being implemented by civil society associations to combat the sale of children, child prostitution and child pornography.

27. During an interview with the organization “Espacios de Desarrollo Integral Asociación Civil” (Spaces for Comprehensive Development AC; EDIAC), the Special Rapporteur was highly impressed by its extremely professional work in the La Merced area, with professionals from different fields carrying out research and developing solutions for minors in vulnerable situations and at risk of prostitution.⁵ The organization collects information on significant aspects

⁵ Norma Elena Negrete Aguayo: *Prostitución, no con nuestros niños: La acción comunitaria como estrategia de prevención de prostitución infantil*, EDIAC, Playa y Valdés publishers, Mexico City, 2004.

of community life (community leaders, problems, conflicts, failures, etc.) as a basis for conducting an analysis of the real situation. Once this assessment has been carried out, the organization creates a common meeting space for minors that is different from the places they usually frequent. At the Mechita Club, minors take part in activities relating to prevention, formal and informal education, sexual health, leisure, children's human rights and promotion of children's participation.

28. EDIAC also carries out community awareness-raising and outreach activities, in order to help people improve their living conditions and develop strategies to prevent child prostitution.

29. The Special Rapporteur also held an interview with the Mexican journalist and writer Lydia Cacho, a human rights defender and author of several works that have had a strong social impact. After writing *Los demonios del Edén* (The Demons of Eden), she received threats and faced confrontations and conflicts with different authorities, including judicial proceedings. The book refers to a child prostitution and paedophile network generating huge amounts of money and involving public office holders who enjoyed protection until reports revealed the seriousness of what was happening. "The social fabric linking the sexual abuse of minors with commercial sexual exploitation, adult prostitution, money-laundering and drug trafficking is more visible than we and ordinary citizens would like to believe. This huge business [...] is sustained by corruption on a global scale", Cacho told the Special Rapporteur. Hers is a courageous voice that should be heeded and protected in Mexico. The Special Rapporteur is extremely concerned at continuing reports that this journalist and human rights defender is still the target of personal threats because of the work she is doing.

30. Another civil society initiative aimed at defending children's rights before the courts is the Office of the Ombudsman for Children's Rights, which sees judicial proceedings as a valid instrument for achieving "structural transformation" and wider defence of rights that are usually violated or ignored.

C. Measures for a general national strategy for children

31. In response to the recommendation of the Committee on the Rights of the Child concerning the need for close cooperation between the Government and civil society in the design and implementation of policies and programmes, the Mexican Government has prepared the Programme of Action 2002-2010: A Mexico fit for children and adolescents,⁶ which is assessed annually. The Programme of Action takes its inspiration from the special session of the United Nations General Assembly on children, held in 2002, at which Mexico reaffirmed its commitment to children by endorsing the outcome document, entitled, "A world fit for children".

⁶ *Informe Anual 2005: Pasos firmes para un mejor país: Un México Apropiado para la Infancia y la Adolescencia, Programa de Acción 2002-2010*, National Council for Children and Adolescents, Mexico City, 2006.

32. Through the National Human Rights Commission, Mexico has carried out several activities to promote children's rights by publicizing them and developing inter-agency public policies. These measures are specifically focused on areas such as civic education, health, sexual and reproductive rights, commercial sexual exploitation and domestic violence.

33. The Special Rapporteur was informed that new activities have been found to initiate public debate on children's issues, such as the National Human Rights Commission's participation in the Joint Action Programme on Children's Rights and Democratic Values in 1998, and against violence and ill-treatment. The National Forum on Children of Women Prisoners was held in 2001, with the participation of several federal organizations and agencies such as the National Institute for Women and the Ministry of Public Security, as well as UNICEF and the Equity and Gender Commission of the fifty-eighth Legislature of the Chamber of Deputies.

34. The Ministry of Social Development has done some very positive work, implementing innovative policies to combat rural poverty and acute manifestations of urban poverty. These include immigrant support clubs, childcare facilities (schools or crèches), social assistance and credit programmes in the 100 poorest municipalities, and activities to raise awareness among employers and migrant families of the need for children to attend school, whatever the circumstances.

D. Punishment of offences

35. The Special Rapporteur visited the Office of the Attorney General, where he heard positive reports of the wider scope afforded by the legal reforms of March 2007, which had improved the conditions for investigating cases of sexual exploitation of minors or human trafficking in the various States. Until then, it had been necessary to link these crimes to other offences over which there was jurisdiction. The fact that trafficking in minors, sex tourism and various forms of exploitation are now federal offences has enhanced the capacity to investigate and prosecute such offences. However, the Office of the Attorney General faces severe shortages of material and human resources to combat this type of offence, which could mean that laws enacted with the best of intentions could become a dead letter. Firm policy decisions should be accompanied by sound and sustainable management capacity. At the meeting with officials of the Office of the Attorney General it was pointed out that, in the light of the need to improve investigation methods to ensure that complainants are not deterred or harmed by intrusive practices, "we need to start treating victims like victims; things have to change; we cannot continue to mistreat victims, keeping them waiting for hours or in inappropriate places; we must be careful to tend to their wounds and investigate the perpetrators".

36. The Special Rapporteur's visit to the Ministry of Public Security left a lasting impression. On the one hand, he was positively impressed by the steps taken by the Cybernetic Police Unit to prevent offences against minors. The Unit is staffed by highly trained personnel and equipped with excellent technological tools to fight child pornography and Internet crime. However, the investigative response to complaints is often not rapid enough; this wastes time, resulting in the loss of important leads that are crucial to solving cases. There are obvious operational difficulties involved in searching for missing or lost minors, since there is no central database of missing children.

III. SITUATION AND PROBLEMS IN THE CITIES VISITED

A. Mexico City (Federal District)

37. With a population of over 20 million, including 10 million who come to work in the city from surrounding areas, Mexico City is one of the largest conurbations in the world. In a megalopolis of this size, there is obviously a huge number of street children (children who are cut off from their families and who either live or spend most of their time in the street). It is estimated that there were about 25,000 street children in the Federal District in 2000; however, according to NGO calculations, the figure is higher. It is also estimated that the large majority of street children in the Federal District are victims of sexual abuse at some time during their lives in the street.

38. Street children engaging in prostitution gather mainly in disadvantaged areas in the La Merced market (Cuauhtémoc municipality), at the Central del Norte bus terminal and in the Observatorio and Indios Verdes metro stations. There are reports of an increase in child prostitution in Mexico City, particularly prostitution involving girls from other parts of the country, such as the southern States. The main causes of the migration of girls who travel alone from rural areas to the city include unfavourable social conditions, unemployment, the lack of social support services and socialization and the lack of educational opportunities in their communities.

39. Most of the girls move to the Federal District in search of a job only to end up in the street without money or shelter. In many cases, they have run away from a violent home life and are vulnerable to exploitation by pimps or *padrotes* when they reach the big city, where they do not know anyone. Places where exploiters (*galanes*) first make contact with girls who have just arrived include the area around the Basilica of Guadalupe, Alameda Central Park, Chapultepec Park and La Villa.

40. Prostitution among boys has also been observed in the Federal District, but to a lesser extent than among girls. Street boys and homosexual or paedophile clients seeking the sexual services of boys generally meet in the Plaza Garibaldi area. The boys are generally reluctant to talk about their experience, and further studies are necessary to gain an overview of the exploiters and corruption networks operating behind the scenes. This is one of the main obstacles faced by social workers in getting street children to participate in assistance programmes for any length of time. The NGOs working with these children estimate that some 2,500 girls and boys are exploited after falling into prostitution.

41. The Special Rapporteur observed the situation first-hand in the side streets of La Merced, where several of the people engaging in prostitution were minors. He was also able to see for himself that many of the market stalls sold pornographic videos and magazines during the day, even openly displaying signs advertising the child pornography content of the recordings. In some cases these turned out to be compact discs showing adult women, while others were blank; however, some did in fact include images of child abuse that are usually considered to be child pornography. This is indicative of the lack of municipal and police control over either child sexual exploitation in public places (side streets) or the sale of pornographic materials produced by means of abuse and exploitation.

42. 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 and to coordinate inspections between the different public authorities to prevent such situations.

43. The spread of HIV/AIDS is another risk increasingly associated with the proliferation of child prostitution. The Special Rapporteur was informed that many clients prefer to have unprotected sex with young children, heightening their vulnerability to exploitation and HIV/AIDS infection.

B. Guadalajara

44. The city of Guadalajara, capital of Jalisco State, is located in the west central region of Mexico. Together with the adjoining municipalities of Tonalá, Zapopan, Tlaquepaque, El Salto and Tlajomulco, which are part of the same metropolitan area, it ranks second among Mexican cities in terms of population and economic activity.

45. In Guadalajara, the Special Rapporteur was informed that children in commercial sexual exploitation fall into different categories depending on their situation. An estimated 2,000 street children work in public places, while some 400 live in such areas. Among the latter group of children, some occasionally engage in prostitution in order to survive, while a smaller number, around 80, do so regularly as their main livelihood. Most of them are boys, aged between 12 and 17, who come mainly from poorer areas of the conurbation or from other Mexican States. They are usually to be found in the city centre, near the former truck terminal, in Madero and Javier Mina streets, although 51 focal points of drug use and prostitution have been identified throughout the city. Boys are reportedly sought both by local homosexuals, who usually meet them at night in Revolution and Morelos parks, and by foreign tourists who look for them mainly in the Plaza del Sol area.

46. Official police sources in Guadalajara informed the Special Rapporteur that, although police culture is changing, there is a need for a gradual improvement in attitudes in the police force. More training is necessary to equip officers and chiefs to handle complex circumstances, as well as psychological support to enable personnel to deal with potential risks and pressure so that they can resist corruption. Lastly, the Special Rapporteur visited the Centre for Specialized Care for Victims of Child Commercial Sexual Exploitation and Their Families, the first of its kind in Mexico, established through the joint efforts of the three branches of government.

C. Tijuana

47. The municipality of Tijuana is located in the north-western part of the State of Baja California, on the border with the United States of America. Its population is estimated at over 1.5 million, which implies a 50 per cent increase in only five years and makes it one of the most highly populated cities in Mexico.

48. For a long time, Tijuana has had a double function owing to its position on the border: on the one hand, it is a transit point for anyone wishing to cross the border legally or illegally; on the other, it is a receiving area for people sent back at the border, who often stay there only because they hope to make a second attempt. In this regard, Tijuana has in recent years been characterized by a growing rootlessness among a large part of its population. This phenomenon

has arisen as a result of the crisis in both rural and urban areas of the country and at a time when the United States has toughened its migration policy. The Special Rapporteur was informed of the steady flow into Tijuana of persons intending to cross the border. During a visit to the Tijuana-San Ysidro border post, he was able to see for himself that this was one of the busiest border areas in the world, with 150,000 persons crossing legally every day; at the same time, it is an important point for the return of illegal migrants.

49. The sale of alcohol and the sex trade play an important part in economic activity in Tijuana. The Special Rapporteur was informed that, in recent years, a difficult situation has arisen as a result of increasing drug use and violence by groups that have settled in the city and are competing for control of key sectors of the national and international drug markets. This has had an impact on local society, in which the sale and use of drugs are spreading.

50. The Special Rapporteur was informed of some of the problems faced by girls and boys in Tijuana. These problems should be viewed in the context of the pressures exerted on local society as a whole by the presence of a large immigrant population. The fact that more and more children are in the street, using drugs or involved in illegal migrant smuggling or drug trafficking only increases their vulnerability and exacerbates the likelihood of their becoming victims of sexual exploitation.

51. During his visits to bars and other popular night spots in Tijuana, both during the day and at night, the Special Rapporteur observed that these highly frequented places were surrounded by many other commercial establishments, ranging from hotels and restaurants to taco stands. He was informed that several groups of minors were involved in the local sex trade. He was also told that there was a proliferation of other businesses employing minors who provided sexual services, such as massage parlours, beauty salons, spas and escort or modelling agencies. All of these operate outside the public health inspection system, since they are not registered as establishments providing sexual services. There is therefore no information as to the number of minors employed in them and the conditions in which they work.

52. The bars also revealed the existence of an extensive sex market with international connections, and were also reportedly a place for human trafficking and smuggling. Although bars, nightclubs and so-called “table dance” clubs (with nude dancers or pole dancing) are now subject to increased police supervision, minors can still be found working in some of them. Supervision is far less effective in the case of commercial establishments that are not on the main avenues or which operate clandestinely in outlying areas or disguise the nature of their activities. In this connection, a very active role is played by touts (*jaladores*) who approach tourists, offering them a wide variety of sexual services.

53. According to police sources, cases of child pornography and sexual exploitation to supply both local demand and potential clients in San Diego and other parts of the United States, are being investigated.

54. The Human Rights Procurator explained that a programme had been launched two years earlier to combat sexual exploitation in the “bilateral corridor” between the United States and Mexico. A prostitution ring was identified, with connections in the public administration to protect it from prosecution. Although over the past two years the programme has examined a number of cases involving trafficking in adults and children, sexual offences and child sexual

exploitation, the official in charge pointed out that “the data registered are minimal compared to the real situation in Baja California, Tijuana and Rosarito”. He also referred to the problem of impunity and alleged complicity between certain officials and bar and nightclub managers. According to another source, there are many minors in Tijuana who do not live on the street, but in *cuarterías*, places hidden in bars, nightclubs, hotels or houses where they are at a high risk of sexual exploitation and which are very difficult for the authorities to reach. Some NGOs also pointed out that it is common for children from other parts of the country to come and live in Tijuana bars, from which they are subsequently taken across the border to be exploited.

55. In a shelter run by the System for the Comprehensive Development of the Family (DIF) for the State of Baja California, the Special Rapporteur was concerned to hear that abandoned minors cannot stay in the shelter for more than three months and often have nowhere to go once this period has expired. During his visit, he observed the care given to five babies who had been abandoned by their drug-addicted mothers, a dramatic situation that is indicative of the serious circumstances faced by many minors in Mexico’s border areas. The Special Rapporteur was informed of the alarming number of 201 children and 31 babies who were being sheltered by the State DIF.

56. The Special Rapporteur also visited the Unit for the Reception, Care and Referral of Migrant Minors located at the border post with the United States. There he heard direct, vivid and staggering accounts of the number of repatriated children who had been travelling alone until they reached the Unit. The Special Rapporteur is profoundly concerned that, at this border crossing alone, between 10 and 20 unaccompanied minors are repatriated every day. The same is true of other crossings. This grave situation raises the question as to what happens to minors who do not return, and how many of them are subjected to abuse and exploitation when they are taken to the United States by smugglers or *coyotes*.

57. At the Unit, the Special Rapporteur interviewed children and adolescents, along with the staff and some family members who arrived hours later to pick up the repatriated minors. The stories were all alarming. The Special Rapporteur heard a typical story from a 14-year-old girl named Carolina. She came from Aguascalientes, where she had lived and experienced problems with her mother and her boyfriend. Since her aunt and uncle lived in the United States, she decided to go there. Her uncle introduced her to someone to help her and she managed to fly to Tijuana, where she obtained a false document to go to the United States. However, she was detained while attempting to cross the border. Her testimony revealed the existence of an active network to send adolescents to cities in the United States and the rapid means of transporting them from distant Mexican cities to the border. It also raises serious doubts as to what would have awaited the girl if she had managed to reach her destination, where she would probably have been met by an exploitation network rather than a relative.

58. The Special Rapporteur also made the acquaintance of a 4-year-old child named Humberto, who was repatriated unaccompanied by an adult. As he was given water and food in the Unit, his dusty clothes still bore the traces of his crossing through the desert, and his face showed signs of anxiety and exhaustion. Someone had paid a *coyote* US\$ 1,800 to get him across the border into the United States. His uncle was coming to take him back to Guerrero, where he came from.

59. The Special Rapporteur would like to place on record the excellent work being done by the DIF Unit at the border crossing between Tijuana and the United States, where he witnessed the reception, care and appropriate treatment given to deported children who arrive at the Unit every day after an unsuccessful attempt to cross the border, from which they returned exhausted, anxious and with a deep sense of failure. They are then reunited with their families and referred to assistance programmes in order to prevent the recurrence of such migration, which carries a high risk for children's integrity.

D. Ciudad Juárez

60. The municipality of Juárez is situated in the northern part of the State of Chihuahua on the border with the United States. It is one of the country's most important border areas, and it is estimated that a little more than one third of Mexico's population lives there. Today, Ciudad Juárez has some 1.6 million inhabitants; if this figure is correct, this would mean that, in only five years, its population has increased by half and is more than double the population of its twin city, El Paso, on the other side of the border. This growth rate, which is markedly different from the growth rate of other cities in the State and in the country, can be explained by the large number of people - some 300 - who arrive in the city every day, either with the intention of crossing the border, which most of the time is unsuccessful, or to find employment in the city's maquiladora (assembly plant) industry. In fact, of the approximately 900,000 workers employed in the country's maquiladoras, 600,000 work in border municipalities, and almost one third of them in Ciudad Juárez.

61. The principal maquiladora industries in the city produce textiles, electronic goods and transport equipment. The growth of this sector in Ciudad Juárez has been characterized by a high level of female employment, which has led to profound changes in the family and social life. The Special Rapporteur was informed that these enterprises prefer young women and minors because they are considered to be a more docile labour force, less informed of their rights and less inclined to assert them, and more capable of putting up with meticulous and monotonous work and hard days in the maquiladoras; all this, combined with low salaries, increases the rate of return and the comparative advantages.

62. The growth of this sector has attracted large numbers of young women and minors from Ciudad Juárez, rural areas and other States. These people move to the city expecting to find employment and to settle there, or to put together resources to cross the border. In other cases, it was mentioned that some young women were recruited for the sex trade after having tried to work in a maquiladora and having found that their salaries did not enable them to meet their needs, particularly when they had children to support. It is also alleged that a large number of the more than 200 murders - following rape and ill-treatment - that have taken place in Ciudad Juárez since 1993, involved young women or minors employed in maquiladoras. The Special Rapporteur noted that this situation demonstrates the high level of violence against women and the tolerance for such violence in Ciudad Juárez; moreover, the victims are young women or girls, who are doubly vulnerable, both because of their gender and age and because

they belong to less advantaged social groups.⁷ At the same time, the fact that this continues to occur can affect the ability of the authorities to provide adequate protection for this sector, enforce the law and apprehend the attackers.

63. The Special Rapporteur was informed that bars, dance halls and brothels have long been an important part of economic life in Ciudad Juárez. This is because Ciudad Juárez is a transit area for many people who are not from the locality, and because it is situated a stone's throw away from the border with the United States. The availability of this type of sexual service in Ciudad Juárez, and the response to the many job applications from persons who arrive in the city, is complemented by the demand for such services by persons passing through the city and by persons coming from the other side of the border because it is easier for them to evade the controls that exist where they live.

64. The Special Rapporteur was also informed of the large number of minors who, in recent years, have attempted to cross into the United States on their own in search of family members or with the hope of finding a job.

65. The wave of murders of women and girls in Ciudad Juárez, which has made the city notorious throughout the world, continues to be a mystery. According to the information and testimonies - ranging from private interviews with victims' families to meetings with leaders and humanitarian organizations - that the Special Rapporteur collected on site, everything indicates that the deaths are the tip of an iceberg that goes far beyond this particular city, revealing a more generalized situation of violence against women and minors. Such violence is largely caused by various forms of domination in the family and the workplace and by sexual exploitation. Machismo continues to be an obstacle, and the fact that women are beginning to participate in society is not tolerated by certain sectors that continue to believe that women are second-class citizens subservient to men. To a large extent, the response to women's emancipation and liberation and their increasing assertion of their rights has been the terrible forms of violence against them, which are evident in Ciudad Juárez.

66. The data collected are overwhelming: in Ciudad Juárez, violence has also targeted minors. Between 1993 and 2005, 101 minors were murdered. Also between 1993 and 2005, 36 women disappeared without a trace, without any information concerning their whereabouts. The study of the victims' profiles reveals, coincidentally, a history of domestic violence, deprivation, difficulties at work and very limited possibilities of obtaining access to State assistance or protection services.

67. Some experts consider that there is a regular pattern of sexually motivated murder of women and girls in Ciudad Juárez, since investigations have linked a large number of the deaths to sexual abuse, commercial exploitation of prostitution, domestic violence initiated by

⁷ "Office of the Special Prosecutor for Investigating Offences Related to the Murder of Women in the Municipality of Juárez, Chihuahua: Final Report", Office of the Attorney General, Mexico City, 2006.

emotional or sexual disagreements and the unmistakable traces of organized criminal groups that have international contacts and are involved in drug trafficking, the sex trade and the smuggling of goods and persons over the nearby border.

68. In this regard, Ciudad Juárez would not be an exception in Mexico, a rare case of violence caused by the unruly life of a border town, but an expression of suppressed violence that has been accumulating for years and which flared up here and was extensively covered by national and foreign media, sounding an alert about what also occurs (according to both governmental and non-governmental sources) in many other Mexican cities.

69. As a symbolic expression of its concern at the violence unleashed against girls in Juárez, the Special Rapporteur travelled to the cotton field known as “El Caballito” where, in recent years, a number of women’s bodies were buried. In addition, accompanying a group of family members of victims of violence, the Special Rapporteur brought an offering of flowers to a site on the outskirts of the city and at the foot of the mountain where the lifeless body of a kidnapped and heinously murdered girl had been found.

IV. CONCLUSIONS

70. Mexico has made great strides in recent years in the protection of the human rights of children through its ratification of international conventions and protocols that have not only been incorporated into domestic legislation but which also serve as models for amending and updating national legislation and relevant social policies. The Mexican Government’s openness to international scrutiny is also noteworthy; Mexico assumes that the protection of human rights is binding on the entire international community and not only on national States.

71. A very positive development has been the process of adopting a law against trafficking in persons, and the drafting of the National Human Rights Plan is to be commended. Another welcome development is the growing and positive trend on the part of civil society to call for a rights-based modernization of legislation in all States, which means that human rights must no longer be conceived as values guaranteed only by the State, but as a challenge for the entire community.

72. Nevertheless, the system of protection is still too centralized in the State, which prevents many social networks from reaching populations in need of their assistance, particularly in border areas, tourist destinations and large cities, to combat the sexual exploitation of children. Relations between the State and civil society are still not strong enough to combat child sexual exploitation, and opportunities for cooperation, in which the public sector could benefit from the dynamism and creativity of civil society in order to get to the root causes of poverty and violence, are therefore lost.

73. There is no effective system to protect and provide assistance to children and young people who have been victims of the offences of sexual exploitation or any form of trafficking. Social rehabilitation or reintegration programmes are practically non-existent. This lack of assistance by the State or non-governmental sectors to child victims of sexual exploitation and trafficking is one of the causes of revictimization. There are not enough of these programmes to address the current situation; the programmes that exist are intended for victims of domestic violence which, although they have a number of similar points, are not sufficiently specialized to provide

assistance in treating serious psychological, physical and emotional damage. This can make victims of sexual exploitation and trafficking very vulnerable to the same or new networks of exploiters and traffickers, who are aware of their weaknesses. A new generation of public policies for children, capable of halting the increase in the trafficking of minors and the sexual exploitation of children and adolescents has yet to be developed.

74. The educational system is neither technically nor administratively prepared to receive reports of abuse, exploitation and trafficking from its students. Bearing in mind that the educational system is well established throughout the country, an opportunity is being lost to make it the first barrier for preventing violations of the human rights of children and young people, although the activities of the National Human Rights Commission and its programme of child promoters of human rights in schools should be mentioned.

75. The sexual exploitation of and trafficking in children, particularly in border areas, tourist destinations and large cities can become an uncontrollable pandemic unless intensive and profound efforts are made to amend social policies on children in order to reach critical areas before situations of exploitation and abuse are established with impunity.

76. Far from being a home-grown or spontaneous phenomenon committed by isolated offenders, the sexual exploitation of children and young people is related to various forms of organized crime and clandestine circuits of the sex trade, where the vast amount of money generated by such activities, and corrupt connections with various bodies in the State sector, facilitate exploitation and frequently make it impossible to prosecute the perpetrators.

77. Although specific situations can vary in each State, city and locality, in accordance with the personal and professional characteristics of the staff involved, the testimonies gathered overwhelmingly point to corruption and police negligence as one of the main causes of exploitation and trafficking. Inefficiency, poor training, corruption and the lack of adequate protocols and monitoring regulations, endemic in various police and municipal agencies responsible for ensuring that no minors are exploited in the so-called “sex trade”, is conducive to the activities of speculators and opportunists who wish to offer their “clients” adolescents and children.

78. Lastly, the social situations in the country’s northern border region pose an extremely high risk for children and adolescents. Traffickers, smugglers and *polleros* (or *coyotes*, - smugglers of illegal immigrants) take minors across the border, sometimes in order to reunite them with family members who have emigrated and sometimes to hand them over to exploiters. In this regard, cases of children who, having illegally entered Mexican territory, have been deported, have not been sufficiently studied. Many of these children are in need of international protection, since they are fleeing not only poverty but also *maras* (juvenile gangs), criminal groups, violence and abandonment by their families and society. They are returned to countries that lack adequate protection networks and where due attention is not given to their future reintegration; this exposes them to new risks of trafficking and exploitation.

VI. RECOMMENDATIONS

79. In the light of the foregoing, the Special Rapporteur wishes to make the following requests, comments and proposals:

(a) The Special Rapporteur urges political actors to ensure that the protection of children and, in particular, efforts to prevent the sexual exploitation of children and adolescents, is a national priority supported by all political sectors, in which everyone has something to contribute, from the most distinguished leaders to the most humble citizens, to save future generations from this scourge besetting the country;

(b) Of the 31 Mexican States, only three punish child prostitution as a serious offence. All Mexican States must punish child prostitution as a serious offence, just as sex crimes are qualified as serious offences in the legislation of the various Mexican States, with a view to ensuring genuine protection of children's rights;

(c) There have been repeated calls for procurators' offices to respond more quickly to reports that they receive, in order to take action to protect potential victims. The various procurators' offices require additional technological resources, better training, better contact with their counterparts in other parts of the world and closer ties with society so that they have greater support for combating the offence more effectively;

(d) The fight against organized crime is already a priority for the Mexican judicial, tax and police authorities. Efforts to prevent the sexual exploitation of children and young people, who are easy victims of unscrupulous persons involved in other criminal activities, such as drug trafficking and smuggling, should also become a priority;

(e) Owing to people's fear of lodging a complaint, the State's credibility has been weakened. In order to strengthen it, the Special Rapporteur recommends such steps as establishing a witness protection system in cases of trafficking and smuggling in order to encourage citizens to lodge complaints and not to resign themselves to what they consider to be inefficiency, corruption or passivity on the part of public institutions;

(f) The police require better training about victims of trafficking, smuggling, domestic violence and sexual abuse. The Cybernetic Police also needs more support and resources in order to ensure that the positive actions that are currently being taken can be expanded to address more demanding criminal realities. To this end, cooperation with other countries is essential;

(g) The Special Rapporteur considers it necessary for the State to maintain its lead role in the area of policies on children; the State should also carry out a vigorous decentralization exercise and transfer resources to organized civil society in order to enable it to reach places that are inaccessible to the State.

80. The existing policies are not sufficient for creating a new and genuine protection system. In order to achieve this, the Special Rapporteur recommends:

(a) The initiation of a national dialogue, in which the State and NGOs can draw up a plan of action for the next 15 years, with shared responsibilities, common goals and innovative policies. Civil society is of key importance for strengthening the democratic process and combating the sexual exploitation of and trafficking in children, and its social interventions should be encouraged, not hindered;

(b) The creation of a high-level national council on children that reflects the diverse proposals of civil society and State programmes and which can formulate ways of developing a new model for providing minors with comprehensive protection and assistance. He also recommends the creation of an ombudsman for children in order to facilitate the decision-making process and the formulation of new policies that have been delayed for too long;

(c) There is currently no rapid response mechanism for cases of disappearances of minors. The Special Rapporteur proposes the creation of a focal point for receiving information and coordinating an emergency search system;

(d) The Special Rapporteur notes the establishment of a free telephone hotline in the Federal District to receive all types of complaints from minors. It would be very useful to have a free national hotline accessible in all parts of the country to enable people to report cases of trafficking in minors or disappeared persons, and to assist minors in complete confidentiality. He also recommends that the hotline operate 24 hours a day in order to be able to receive emergency calls;

(e) The Special Rapporteur recommends the establishment of special centres that are fully equipped to provide emergency assistance to minors who have been victims of child commercial sexual exploitation. The existence of various civil society programmes with different technical expertise and with diverse proposals would be useful in order to have a wide range of possibilities and strategies;

(f) The Special Rapporteur recommends the strengthening of relations with the International Labour Organization and, specifically, the International Programme on the Elimination of Child Labour (IPEC), which continues to form institutional alliances that define measures to combat child labour, encourages the development of national policies, promotes protective legislation and works to strengthen existing organizations;

(g) The Special Rapporteur recommends that special emphasis be placed on responsible tourism. He recommends that Mexico sign the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, which is designed to establish the ethical norms to be followed by the tourist industry, thereby creating a shared social responsibility that respects and protects children's rights. The Special Rapporteur also recommends more active cooperation between the Government of Mexico and national and foreign tourist industries with a view to improving the protection of children from these crimes. In addition, the various governments of the Federation should take care when they establish guidelines to be followed in their tourism policies in order to prevent - as has already occurred in the past - the State from encouraging investments that are linked to networks that exploit minors.

81. The Special Rapporteur expresses concern at the lack of complete, credible and consistent information concerning the series of offences committed against minors in connection with prostitution and child pornography that have occurred in recent years in Ciudad Juárez. The Special Rapporteur recommends the establishment of a truth and prevention commission in that city, composed of government representatives and representatives of victims' families, humanitarian organizations and eminent persons of the city, which would have the objective of compiling all available information and making proposals concerning social prevention in order to avoid the recurrence of such offences. This group could proceed to the creation of "a book of hope and never again", in which cases could be registered and the community could express its commitment to forms of coexistence in security and development that would help to prevent these unpunished forms of violence. The Special Rapporteur also recommends the erection of a monument or memorial in honour of the victims, which should be placed in a central area in order to demonstrate civilians' commitment to peaceful coexistence and respect for human rights.

82. Child commercial sexual exploitation is still a subject that has received little attention from researchers, in spite of the interesting works that the Special Rapporteur found at the University of Guadalajara. The Special Rapporteur urges the Mexican academic community, which is intellectually rich and innovative in many areas, to make an in-depth study of subjects relating to the protection of minors.

83. It often happens that members of a minor's immediate family live in the United States of America, while members of the minor's non-immediate family - for example, distant aunts and uncles or cousins - live in Mexico. This leads to a situation in which minors who have been deported back to Mexico often find it difficult to face the trauma of having been deported and having to leave their nuclear family in the neighbouring country; this leads to very traumatic situations of separation. The Special Rapporteur recommends the conclusion of a bilateral agreement that would grant such children amnesty and enable them to return to the United States to be with their immediate family.
