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الدورة السادسة عشرة

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير المقررة الخاصة المعنية بمسألة بيع الأطفال وبغاء الأطفال واستغلال الأطفال في المواد الإباحية، نجا معلاً مجيد

إضافة

البعثة إلى الولايات المتحدة الأمريكية*

موجز

يبحث هذا التقرير ظاهرة بيع الأطفال وبغاء الأطفال واستغلال الأطفال في المواد الإباحية في الولايات المتحدة الأمريكية، على ضوء المعايير الدولية لحقوق الإنسان. واستناداً إلى المعلومات التي جمّعت قبل الزيارة وأثناءها وبعدها، تسلّط المقررة الخاصة الضوء على المبادرات التشريعية والسياسات والمبادرات على المستوى الاتحادي ومستوى الولايات للتصدي لظاهرة بيع الأطفال وبغاء الأطفال واستغلال الأطفال في المواد الإباحية، فضلاً عن البرامج المتاحة لحماية الأطفال الضحايا. ويتناول تقرير المقررة الخاصة أيضاً جهود التعاون الدولي والإقليمي المبذولة في هذا المجال والشراكات مع القطاع الخاص. وأخيراً، تقدم المقررة الخاصة عدداً من التوصيات بغية الإسهام في تعزيز الجهود التي يجري بذلها لمكافحة ومنع بيع الأطفال وبغاء الأطفال واستغلال الأطفال في المواد الإباحية، ولحماية حقوق الأطفال ضحايا هذه الممارسات.

* يُعمم موجز هذا التقرير، بجميع اللغات الرسمية. أما التقرير المرفق بالموجز فيُعمم كما ورد وباللغة التي قُدّم بها فقط.

Annex

Report of the Special Rapporteur on the sale of children, child prostitution and child pornography on her mission to the United States of America (12-27 October 2010)

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I. Introduction

1. The Special Rapporteur undertook an official visit to the United States of America between 12 and 27 October 2010. The Special Rapporteur held meetings with stakeholders in New York City, Washington D.C., Los Angeles, San Diego, Las Vegas, New Orleans and Atlanta. She thanks the Government of the United States of America for its collaboration in organizing meetings with relevant government officials, and for its cooperation before, during and after the visit.

2. In Washington D.C., the Special Rapporteur met with representatives of the Department of State, the Department of Justice, the Department of Homeland Security, the Department of Health and Human Services, the Department of Labor, the Department of Education, the International Centre for Missing and Exploited Children, the National Centre for Missing and Exploited Children and with a staff member of a Senator.

3. Due to the large number of stakeholders at the federal and state levels, for a list of divisions present at these meetings and those at the state level, please see annex I of this report.

4. The Special Rapporteur also met with members of civil society in each of the cities visited, and visited programmes and care centres for children, including a child advocacy centre in New York City. The Special Rapporteur is grateful for the opportunity to have met and exchanged views with children currently in care centers and NGO programmes.

5. In her report to the ninth session of the Human Rights Council in September 2008, the Special Rapporteur identified the objectives of her mandate.¹ With those in mind, the objective of the visit was to explore the incidence of sale of children, child prostitution and child pornography in the United States of America, and to examine initiatives and measures undertaken by the Government and civil society to combat and prevent these phenomena, including by examining root causes and risk factors.

6. Throughout the visit, the Special Rapporteur solicited the views of all stakeholders regarding the situation of the rights of the child in the country, on measures which have yielded some success, as well as on those which needed to be strengthened, with a view to making targeted conclusions and recommendations to be followed up effectively by all stakeholders concerned.

II. General background

A. Context

7. Prostitution, pornography and trafficking in persons for sexual purposes are not new phenomena in the United States of America. At the turn of the 20th century, for example, children as young as 9 years of age populated the brothels of large American cities². The majority of the children found in these brothels were girls, while boys were also among the population of prostituted youth. The numbers of American children in sexual servitude were sufficiently large as to stimulate the beginnings of the American child welfare movement, which contributed to: 1) raising the legal age for sexual consent for girls from

¹ A/HRC/9/21.

² "The Commercial Sexual Exploitation of Children in the United States, Canada and Mexico" R. Estes and N. Weiner, University of Pennsylvania School of Social Work, 2001, p. 39.

10 to 16 years; 2) passage of the Mann Act which made “white slavery” illegal; 3) the establishment of orphanages for homeless youth; 4) the creation of adoption and foster care systems; 5) the establishment of child protective services for children living in their own homes or in foster care; 6) the establishment within the federal government of the Children’s Bureau; and 7) the development of “orphan trains” that relocated tens of thousand of homeless children from street life to farms in the country’s mid- and far-west. Today, while far more is known and understood about the causes and consequences of commercial sexual exploitation of children, a substantial number of children continue to fall victim to these practices each year.³

8. In 2000, with the signature of the United Nations Convention on Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention (“Palermo Protocol”), the United States of America enacted the Trafficking Victims Protection Act (TVPA). The United States of America also participated in the Second and Third World Congresses on the Commercial Sexual Exploitation of Children and Adolescents in Yokohama in 2001 and in Rio de Janeiro in 2008, respectively. . Since the enactment of the TVPA, efforts to combat trafficking in persons have focused primarily on the international trafficking in persons, including the trafficking of foreign citizens into the United States.

B. International and regional human rights instruments

9. The United States of America is party to the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The United States of America ratified the two Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography in 2002. With respect to the latter, the United States of America made reservations to articles 2(a) and 2(c), so as to modify the definitions of the terms “sale of children” and “child pornography” respectively. However, the United States of America has not yet ratified some key instruments, such as the Convention on the Rights of the Child (“CRC”), the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of Discrimination against Women.

10. The United States of America is party to the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

11. At the regional level, the United States of America is a Member State of the Organization of American States and adopted the American Declaration of the Rights and Duties of Man. It is also a signatory to the American Convention on Human Rights.

³ “The Commercial Sexual Exploitation of Children in the United States, Canada and Mexico” R. Estes and N. Weiner, University of Pennsylvania School of Social Work, 2001, p. 39.

III. Situation analysis

A. Scope of sale of children, child prostitution and child pornography

12. Given the nature of the phenomena of sale of children, child prostitution and child pornography, the true scope of these practices in the United States of America is difficult to measure. According to information provided in the National Strategy for Child Exploitation, Prevention and Interdiction, the threat to a child in the United States of becoming a victim of child exploitation is a very serious one.⁴ Stakeholders agreed that commercial sexual exploitation is a highly profitable industry, coupled with a low risk of conviction for abusers, and there is a pool of vulnerable children at risk of being used in such practices.

13. According to various stakeholders the Special Rapporteur met with, in the United States of America, the phenomenon of child prostitution mostly affects: runaway and homeless youth (either from home or from foster care) who trade sex as a means of survival; children who have been sexually, physically and emotionally abused; and children who are controlled by adults and/or trafficking networks looking to make a profit. Poverty is often cited as an explanation for the involvement of children in prostitution. However, according to some studies, many children recruited into prostitution in the United States appear to come from working or middle class families and engage in prostitution as methods of supporting themselves while living on the streets.⁵

14. Virtually all interlocutors the Special Rapporteur met with were of the view that the scope of domestic child prostitution is unknown. Law enforcement officers in the different States visited stated that the problem is either growing or has been more or less steady over the past few years, but could not provide official disaggregated data regarding the sex, profile and age of the child victims. Data on the number of children identified, or investigations and convictions undertaken are available from different agencies. For instance, Los Angeles police processes about 100 cases of child prostitution per year, mostly girls, while Las Vegas Police identifies about 150-200 minors per year. However a centralized and standardized data collection system, across agencies, is still lacking. All states reportedly are seeing more cases of domestic trafficking.

15. In 2005, the TVPA was reauthorized, and it reflects the following findings of Congress: (a) trafficking in persons also occurs within the borders of a country, including the United States; (b) As many as 300,000 children in the United States are at risk for commercial sexual exploitation, including trafficking, at any given time; (c) runaway and homeless children are highly susceptible to being domestically trafficked for commercial sexual exploitation. According to the National Runaway Switchboard, every day, between 1,300,000 and 2,800,000 runaway and homeless youth live on the streets. One out of every seven children will run away from home before the age of 18.⁶ Furthermore, according to the National Center on Missing and Exploited Children (NCMEC), 86% of victims of child prostitution are runaways from the child welfare system. Similarly, one service care provider stated that 85% of its beneficiaries are runaways from the child welfare system. According to some estimates, the average age of entry into prostitution in the United States is between 12 and 14 years of age.⁷ It appears that the most available and frequently cited

⁴ National Strategy for Child Exploitation, Prevention and Interdiction, p. 2.

⁵ Estes, Weiner, p. 3.

⁶ TVPRA 2005.

⁷ The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children, 2009, p. 30.

statistics on the scope of domestic child prostitution date back to 2001, highlighting the need for more up to date research and analysis. In this regard, the Government reports that there are extensive Government-funded studies underway designed to get a better understanding of the problem. The Special Rapporteur expresses concern about the limited availability of information on the situation of children involved in prostitution on American-Indian reservations.

16. Regarding child pornography, authorities noted an increase in the violence of images recorded, a decrease in the age of the child victims used as well as the growing availability of child pornography on the internet and other evolving technologies and more identifiable access thereto.⁸ Since January 2010, authorities have received 175,000 cybertips of online child pornography. The FBI reports that between 1996 and 2007, there was a 2062% increase in child exploitation investigations throughout the FBI. The prosecution of cases of child pornography increased by 82% from 1994 to 2006. Authorities also noted a correlation between child pornography and contact offenses. Possessing and distributing child pornography is considered a pathway to sexual assault.

17. The Special Rapporteur inquired about allegations that surrogate mothers abroad were receiving payment, echoing the concern of the Committee on the Rights of the Child “at the information that, according to the current regulations, the payment of prenatal and other expenses to birth mothers abroad would still be possible.” In response to her inquiry, the Special Rapporteur was informed that the issue was currently under review.

B. Domestic legal framework: numerous laws yet lack of harmonization

1. Sale of children

(a) Federal laws

18. Federal law does not prohibit sale of children per se, but rather proscribes sale of children for specific purposes, such as child pornography, child prostitution and adoption. For instance, section 2251A under title 18 of the United States Code⁹ prohibits selling or buying of children with knowledge that the child will be portrayed in “sexually explicit conduct” or with intent to promote the engagement of the child in “sexually explicit conduct”¹⁰, and carries with it a penalty of 30 years to life imprisonment.¹¹ Sex trafficking of children, which covers acts of knowingly benefiting, financially or by receiving anything of value from sex trafficking of children, is also prohibited.¹² Perpetrators of this offence are punished by a fine and imprisonment for 10 years at a minimum.¹³ The Intercountry Adoption Act of 2000 specifically criminalizes offering, giving, soliciting or accepting compensation intended to influence parental consent relating to the adoption of a child in cases where the Hague Convention applies.¹⁴ Regulations also set out accreditation processes for adoption agencies and prohibit paying, giving, receiving or accepting any

⁸ See also National Strategy, p. 2

⁹ Title 18 of the USC deals with federal crimes, penalties and prisons.

¹⁰ 18 U.S.C. § 2256 (2)

¹¹ 18 U.S.C. § 2251 A

¹² 18 U.S.C. § 1591

¹³ 18 U.S.C. § 1591

¹⁴ Section 404.

money aimed at inducing or influencing any decision concerning the adoption of a child.¹⁵ These regulations still permit, however, reasonable payments for various services, such as payments for medical and other similar expenses incurred by a mother or her child, legal services, court costs, and travel or other administrative expenses connected with an adoption.¹⁶

19. While it does not specifically address children, federal law also prohibits sale of a person “into involuntary servitude”,¹⁷ as well as sale, purchase or transfer of human organ for use in transplantation, if the transfer affects interstate commerce.¹⁸

20. In the District of Columbia¹⁹, the law prohibits financial benefit from child trafficking for sexual exploitation.²⁰

(b) *State laws*

21. At the State level, legislative provisions prohibit sale of persons in the context of involuntary servitude²¹, and sale of children for purposes of adoption²²

2. Child prostitution

(a) *Federal laws*

22. The issue of child prostitution is mainly addressed by state legislation and federal law applies only insofar as interstate or foreign commerce is affected. Thus, title 18 of the US Code prohibits, inter alia, transportation across foreign or state borders of a child with the intent that the child engages in prostitution,²³ and travel in interstate commerce or into the US for the purpose of engaging in any commercial sex act with a child.²⁴

23. The TVPA prohibits sex trafficking, which is defined as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act”. Where the victim of sex trafficking is under the age of 18 years, the crime is classified as one of “severe forms of trafficking in persons”.²⁵ Thus, any child who is commercially sexually exploited is considered as a victim of “severe forms of trafficking” in the United States. The TVPA was re-authorized and amended by the Trafficking Victims Protection Reauthorization Act (“TVPRA”) in 2003, 2005 and 2008, notably to recognize domestic victims of trafficking and the extension of assistance to such victims. The TVPRA 2005 introduced the term, “juvenile subjected to trafficking”, which is defined as a United States citizen, or alien admitted for permanent residence, who is the subject of sex trafficking or severe forms of trafficking in persons that occurs, in whole or in part, within the United

¹⁵ 22 C.F.R. 96 (ACCREDITATION OF AGENCIES AND APPROVAL OF PERSONS UNDER THE INTERCOUNTRY ADOPTION ACT OF 2000)

¹⁶ 8 CFR § 204.304 (b)

¹⁷ 18 U.S.C. § 1584

¹⁸ 42 U.S.C. §274e.

¹⁹ The District of Columbia is subject to federal law and governed by local ordinances.

²⁰ Section 106 of the Prohibition Against Human Trafficking Amendment Act of 2010.

²¹ For example, section 200.465, Nevada Statute

²² For example, LA. REV. STAT. ANN. § 14:286 and LA. REV. STAT. ANN. § 14:286 (C).

²³ 18 U.S.C. §2423.

²⁴ 18 U.S.C. §2423 (b).

²⁵ TVPA, Section 103 (8).

States and who has not attained 18 years of age at the time of identification as such.²⁶ The TVPRA 2005 established a pilot program to establish residential treatment facilities in the country for minor victims of domestic trafficking²⁷ and the TVRPA 2008 further authorized the creation of a program to provide protection and assistance to citizens of the United States and permanent residents who are victims of severe forms of trafficking.²⁸ The TVPRA 2008 also strengthened the policy framework for the protection of unaccompanied alien children, including those who are victims of severe forms of trafficking or at risk of trafficking, including placement, repatriation and reintegration policies and procedures. The TVPRA 2005 focuses on addressing the demand side of trafficking, by authorizing grants to establish programs to investigate and prosecute persons who purchase commercial sex acts, and educate persons charged with or convicted of purchasing or attempting to purchase commercial acts.²⁹

24. The Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act (“PROTECT Act”) abolished a statute of limitations for crimes involving the abduction or physical or sexual abuse of a child.³⁰ It also applies extraterritorial jurisdiction to citizens or permanent residents of the United States of America who travel to engage in any commercial sex act with a child, and increased penalties for repeated sex offences against children: a person with a prior conviction who commits a sex offence against children is sentenced to life imprisonment.³¹ The 2006 Adam Walsh Protection and Safety Act established a national system for the registration of perpetrators of sex offences against children and significantly increased penalties for sex offences committed against children, such as sexual abuse, sex trafficking and conduct relating to child pornography.

25. Enticing or forcibly abducting a child for the purpose of prostitution,³² pandering,³³ parents or guardians consenting their children to be used for prostitution are prohibited³⁴ in the District of Columbia, as is the trafficking of children for the purposes of sexual exploitation.³⁵

(b) *State laws*

26. In the States the Special Rapporteur visited, she observed that prostitution and acts related thereto are widely criminalized, including pandering³⁶, enticing persons into prostitution³⁷, engaging in and soliciting for prostitution,³⁸ knowingly advancing or profiting from prostitution (pimping)³⁹, keeping a place of prostitution,⁴⁰ and placing a

²⁶ Section 203(f), TVRPA 2005

²⁷ Section 203, TVRPA 2005.

²⁸ Section 213, TVPRA 2008.

²⁹ Section 204, TVPRA 2005.

³⁰ 18 U.S.C. §3283; Section 202, PROTECT Act.

³¹ 18 U.S.C. §3559 (e); Section 106, PROTECT Act

³² D.C. CODE § 22-2704 (2010)

³³ D.C. CODE § 22-2705 (2010)

³⁴ D.C. CODE § 22-2705 (b) (2010)

³⁵ Section 104, Prohibition Against Human Trafficking Amendment Act of 2010.

³⁶ NEV. REV. STAT. §201.300, New York Penal Law §230 (2010), O.C.G.A. § 16-6-12, LA. REV. STAT. ANN. §14.84 (2010)

³⁷ LA. REV. STAT. ANN. § 14:86 (2010)

³⁸ California Penal Code, § 647(b), NEV. REV. STAT. § 301.354 (2009), LA. REV. STAT. ANN. § 14:82 (2010).

³⁹ See New York Penal Law §230 (2010), O.C.G.A. § 16-6-11

⁴⁰ O.C.G.A. § 16-6-10

person in the house of prostitution.⁴¹ Some States do not have exemptions for children, including those who have not reached the age of consent for sexual intercourse.⁴² This often leads to criminalization of children who are victims of commercial sexual exploitation.

27. The California Penal Code also criminalizes procurement of women under the age of 18 years for the purpose of prostitution,⁴³ pimping a minor prostitute,⁴⁴ pandering,⁴⁵ abduction of minor for prostitution,⁴⁶ and admitting or keeping minor in house of prostitution.⁴⁷ Trafficking of children for the purposes of sexual exploitation is also prohibited in some States.⁴⁸

28. The Special Rapporteur notes positive legislative developments in some States aimed at extending protection to child victims of commercial sexual exploitation. The 2010 “Act to amend criminal procedure, in relation to victims of sex trafficking convicted of prostitution offenses” of New York allows vacation of a conviction where the convicted person committed the offending acts because she or he was a victim of sex trafficking or trafficking in persons, as defined under the state law or the TVPA. In addition, the Safe Harbor Act of September 26, 2008 of New York prevents the criminalization of child victims of sex trafficking by giving police the option of taking them directly to a safe shelter, provided that the court has adjudicated them as Persons In Need of Supervision, rather than as juvenile delinquents. However, stakeholders expressed concern that the Safe Harbour Act is often not invoked or implemented, implying that children continue to be arrested and charged under prostitution-related offences.

29. Some difficulties arise when there is inconsistency between federal and state law. For instance, a child is defined as a person under 18 under the TVPA. However, under the New York Anti-Trafficking Law, a child is defined as a person under 18 years of age in some circumstances, and under 17 years of age in others. Furthermore, under the New York Anti-Trafficking Law, even for the cases of minors, some form of coercion must be proven to qualify as trafficking, which is not a requirement under the TVPA.

3. Child pornography

(a) Federal laws

30. Reflecting the reservation made to article 2(c) of the Optional Protocol, the definition of child pornography under federal legislation is limited to visual materials, including a digital, computer or computer-generated image.⁴⁹ Title 18 of the US Code contains extensive provisions that prohibit acts related to the production, advertisement, receipt, distribution, transportation, and possession of child pornography, if the pornographic depiction was produced using any materials that had ever been transported in

⁴¹ NEV. REV. STAT. §201.360.

⁴² For example: California Penal Code, § 647(b), O.C.G.A. § 16-6-9, New York Penal Law § 130.05, LA. REV. STAT. ANN. § 14:80 (2010)

⁴³ California Penal Code, § 266.

⁴⁴ California Penal Code, § 266h

⁴⁵ California Penal Code, § 266i

⁴⁶ California Penal Code, § 267

⁴⁷ California Penal Code, § 309

⁴⁸ For example., section 230.24 New York Penal Law, New York Anti-Human Trafficking Act of 2007, and Section 14.46.3 of the Louisiana Revised Statute

⁴⁹ 18 U.S.C. § 2256(8).

interstate or foreign commerce, including by computer, or if the image was transported interstate across a U.S. border.⁵⁰ Violations of these provisions attract serious penalties, such as a fine and imprisonment for 15 to 30 years for production or advertisement of child pornography.⁵¹ The PROTECT Act of 2003 prohibits the production of obscene depictions of children engaged in sexually explicit conduct, and criminalizes extraterritorial production of child pornography for distribution in the United States.⁵² The Special Rapporteur also welcomes the provision stating that images of child pornography must remain in the care, custody and control of the government or the court during criminal proceedings.⁵³ Finally, Title 18 also provides for mandatory restitution of all child pornography cases, covering “the full amount of the victim’s losses” including expenses such as medical services relating to the physical or psychological care or attorney’s fees.

31. In addition, federal law obligates Internet Service Providers (ISPs) who have actual knowledge of child pornography on their servers to report such information to the CyberTipline of NCMEC. However, the government cannot obligate ISPs to search for child pornography due to strict confidentiality restrictions for electronic communications.

32. The District of Columbia prohibits, *inter alia*, knowingly using or promoting a sexual performance by a child.⁵⁴

(b) *State laws*

33. All the States that the Special Rapporteur visited have legislation which contains extensive prohibitions related to child pornography, including knowingly using or promoting a sexual performance by a child⁵⁵, promoting, preparing, advertising, distributing, and possessing child pornography⁵⁶. The Official Code of Georgia Annotated also specifically prohibits intentional or wilful use of a computer on-line service or Internet service, such as Internet chat room and on-line messaging service, to solicit or entice a child to commit sexual offences,⁵⁷ as well as the act of “obscene Internet contact with a child”.⁵⁸

34. While the Special Rapporteur is encouraged by the breadth of the state legislation covering a wide range of acts relating to child pornography, it is of concern that there seems to be no uniformity in the definition of a child for the purpose of child pornography. In some States, a child is a person under 16 years old or 17 years old, depending on the nature of acts involved.

⁵⁰ 18 U.S.C. § 2251 & § 2252A.

⁵¹ 18 U.S.C. § 2251.

⁵² Section 506, the PROTECT Act.

⁵³ 18 U.S.C. § 3509.

⁵⁴ D.C. CODE ANN. § 22-3102.

⁵⁵ New York Penal Law § 263.05 (2010), § 263.10 and § 263.15 (2010), section 311.4 (a) California Penal Code, GA. CODE ANN. § 16-12-100 (b)(1); § 16-12-100 (b)(3) (2010).

⁵⁶ NEV. REV. STAT. ANN. § 200.710; § 200.720; § 200.725; § 200.730 (2009), Sections 311.1(a), 311.2(b) and 311.11 California Penal Code, GA. CODE ANN. § 16-12-100 (b)(5) (2010), GA. CODE ANN. § 16-12-100 (b)(8) (2010), Section 14.81.1 Louisiana Revised Statute.

⁵⁷ GA. CODE ANN. § 16-12-100.2 (d)(1) (2009).

⁵⁸ GA. CODE ANN. § 16-12-100.2 (e)(1) (2009).

C. Institutional framework

1. Federal institutional framework

35. Several federal Government departments are involved in efforts to prevent and combat the sale of children, child prostitution and child pornography.

36. Numerous sections within the Department of Justice are involved in investigating and prosecuting crimes relating to child exploitation. The Child Exploitation and Obscenity Section of the Criminal Division investigates and prosecutes federal cases involving child sexual exploitation, such as sex trafficking and sex tourism, in conjunction with the Crimes against Children Unit of the Federal Bureau of Investigation (FBI). They also provide training to other prosecutors and agents.

37. The United States National Central Bureau acts as the official representative to Interpol as designated by the Attorney General. It exchanges criminal investigative data with international counterparts. In cooperation with other agencies, it tracks sex offenders who travel overseas, and coordinates international alerts relating to child exploitation. It has recently created a post on Human Trafficking and Child Protection.

38. The United States Attorney's Office is the federal prosecutor with representatives in each State. They prosecute federal cases involving child sexual exploitation, including all cases with an inter-state or federal dimension, and thus cover online child pornography cases.

39. The Department of Homeland Security's Immigration and Customs Enforcement focuses on the international, trans-border dimension of child exploitation. In this regard, it coordinates enforcement efforts between the national level and state and local law enforcement agencies. It also coordinates efforts with foreign law enforcement to identify and arrest the principals involved in international child exploitation or child sex tourism networks. Operation Predator, launched in 2003, is designed to identify, investigate and, as appropriate, administratively deport child predators such as child pornographers, child sex tourists and facilitators, human smugglers and traffickers of minors. Over 18,000 sexual predators reportedly have been arrested as a result of Operation Predator. The Department's Citizenship and Immigration Services provides immigration relief for foreign victims of human trafficking, child exploitation and child sex tourism, child abuse, abandonment and neglect, and refugees through various programs. It also oversees and regulates international adoptions.

40. With a view to strengthening coordination amongst all these agencies, pursuant to the PROTECT our Children Act of 2008⁵⁹, the Department of Justice (Office of the Deputy Attorney General) appointed a National Coordinator for Child Exploitation, Prevention and Interdiction in January 2010, who serves as the Department's liaison with all federal agencies regarding the development and implementation of a national strategy to combat child sexual exploitation, and whose objective is to ensure proper coordination among agencies involved in child exploitation, prevention and interdiction.

41. The Administration for Children and Families division of the Department of Health and Human Services funds state, territory, local and tribal organizations to provide family assistance (welfare), child support, child care, child welfare and other programs relating to children and families. Direct services are provided at the state, county, city or tribal levels, by public and private local agencies. The Children's Bureau is housed within the

⁵⁹ Providing Resources, Officers and Technology to Eradicate Cyber Threats to Our Children Act of 2008

Administration for Children and Families, and provides funding, training, guidance through policy, and monitoring the implementation of federal laws and policies. It works with Federal and local agencies to develop programs focused on preventing and protecting children from abuse as well as governing the adoption and foster care system in areas receiving Federal funding.

42. The Children's Bureau monitors State child welfare services through "Child and Family Services Reviews" (CFS Reviews) "Eligibility for funding" reviews and others. The "Adoption and Foster Care Analysis and Reporting System" is a data collection system that provides information to assist monitoring systems. The Child and Family Services Reviews cover all 50 States' Child and Family Services on a rotating basis, and as measured against national standards. On the basis of the reviews, Program Improvement Plans are proposed and final reports issued identifying strengths and areas for improvement. The Special Rapporteur welcomes these monitoring mechanisms.

43. The Office of Refugee Resettlement within the Administration for Children and Families funds the National Trafficking Resource Centre, a national, toll-free hotline (1-888-3737-888 or NHTRC@PolarisProject.org), which is operated by an anti-trafficking NGO. It operates 24 hours a day, seven days a week, every day of the year, and provides callers with a range of comprehensive services, including crisis intervention, urgent and non-urgent referrals, tip reporting, anti-trafficking resources and technical assistance. The centre maintains a national database of relevant organizations and individuals as well as a library of resources and materials.

44. The Victim Assistance office of Immigration and Customs Enforcement works directly with foreign victims of sexual exploitation who have been trafficked into the country, and provides responses to victims of child pornography, child sex tourism, white collar crime and human rights abuse cases. Its 18 full time victim assistance coordinators (social workers, psychologists) and 350 collateral duty victim assistance coordinators are trained in victims' issues, undertake child forensic interviews, operate transitional housing with 24 hour security and provide on-site victim assistance in cooperation with civil society organisations.

2. Federal and State cooperation efforts

45. Numerous task forces have been established to improve coordination efforts between federal and state authorities in combating and preventing child prostitution and child pornography.

46. The ICAC Task Force is a network of 61 coordinated task forces to assist state and local law enforcement agencies develop effective investigative and prosecutorial responses to cyber-enticement and child pornography cases. Since 1998, ICAC task forces across the country have arrested nearly 17,000 offenders. Local law enforcement agents and prosecutors are trained on combating online child pornography. It is funded by the Office of Justice Program of the Department of Justice, which oversees the disbursement of millions of dollars in grants to federal, state and local agencies to aid in the fight against child exploitation.

47. In June 2003 the Innocence Lost National Initiative was launched by the Department of Justice and NCMEC. The initiative brings together state and federal law enforcement agencies, prosecutors and social service providers in order to address the issue of domestic child prostitution. The initiative is comprised of 34 task forces and working groups. It trains state and local officials and NGOs on identification and protection of prostituted children, as well as detection and prosecution of pimps and clients in cities which have high incidences of child prostitution. The initiative operates a database for all task forces across the country, and contains information on pimps or traffickers from one jurisdiction and

which is accessible by other task forces across the country. As at December 2009, more than 300 key law enforcement personnel had been trained. Additionally, DOJ has trained upwards of 1000 people on victim identification.⁶⁰ In the first 6 years, this initiative has identified almost 900 child victims of prostitution, obtained 510 convictions in state and federal courts, and seized over \$3 million in property and assets.⁶¹

48. In 2006, the Department of Justice launched Project Safe Childhood, which aims to combat the proliferation of technology-facilitated sexual exploitation crimes against children. It is implemented in partnership between numerous federal, state and local law enforcement officials and NCMEC. As of May 29, 2009, a total of 2,312 victims of child pornography crimes have been identified and many rescued, over 1000 of them since the launch of Project Safe Childhood. US Attorney's Offices filed 2,315 indictments in fiscal year 2009 against 2,427 defendants, representing a 40% increase over fiscal year 2006.⁶²

49. The Special Rapporteur also notes the President's Interagency Task Force a cabinet-level task force to coordinate federal efforts to combat human trafficking, and its Senior Policy Operating Group, which implements anti-trafficking policies and guidelines.

50. Despite these numerous initiatives, stakeholders reported that information sharing amongst agencies at the federal and State levels as well as effective coordination remain significant challenges.

3. State Institutional Framework and challenges in responses at the State level

51. Under the United States' governmental structure, child and family- related laws and policies are implemented at the State level. Police services are at the city level, and State District Attorneys prosecute State-level crimes. Child pornography can be prosecuted at either level, whereas cases of domestic prostitution tend to be treated at the State level.

52. In some jurisdictions, police officers have the authority to do undercover operations in the streets and identify girls involved in prostitution, with the aim of rescuing them. They also undertake operations targeting the pimp or the client, but admit difficulties in tracing and tackling the criminal networks that traffic and sell children. The Special Rapporteur was impressed with the technical capacities of the Los Angeles Police Department and the ICAC Task Force in tracking and detecting online child pornography. They also undertake undercover "grooming" operations, posing as children in order to catch sexual predators.

53. Reportedly children involved in prostitution are charged, detained and processed through the juvenile justice system for a number of reasons, depending on the jurisdiction. They can be detained because the State law criminalizes prostitution, and thus the girls are considered as criminals; or they can be detained for their own safety, and in order to secure their cooperation in eventual prosecutions against the pimp. In some jurisdictions such as Clark County, charges of prostitution are rare; rather the children are charged with lesser offences such as solicitation for the purposes of prostitution, loitering for the purposes of prostitution, being in a gaming establishment, curfew violations, and providing false information to a police officer.

54. Representatives of the Los Angeles Police Department stated that once they identify a girl, they try to liaise with NGOs providing direct services, or with the foster care system.

⁶⁰ Report from the United States Mid-Term Review on Commercial Sexual Exploitation of Children, ECPAT-USA, Shared Hope International and the Protection Project of John Hopkins School of Advanced International Studies.

⁶¹ United States Periodic Report to the CRC-OPSC, January 2010, p. 15.

⁶² National Strategy, p. 5.

They stated that, in the worst case scenario, they may arrest her as it is often the only choice to get the girl off the streets. Similarly, the Las Vegas Metropolitan Police Department stated that the absence of a safe house in Las Vegas means that pre-adjudication detention (up to a period of 8 days) is the only alternative to get the girls off the street and to protect them. Of further concern is that few protective services (therapy, counseling, mental health) are provided to the victims in pre-adjudication detention.

55. According to law enforcement in numerous cities visited, significant challenges exist to effective investigation and prosecution of cases of child prostitution. The cooperation of the victim is often seen as the only way to secure a conviction against the pimp/trafficker (see below); such cooperation is often difficult to obtain, due to a lack of trust in law enforcement. Furthermore, despite the successes of the Innocence Lost Initiative, law enforcement authorities reiterated the need for increased cooperation with their counterparts in other states. The fact that pimps and traffickers are increasingly moving the child victims between states poses particular challenges: for example, 60% of children involved in prostitution in Nevada are from out of state. If a girl runs away from the foster care system in California and is found in Nevada, the Nevada authorities are under an obligation to send her back under court order to California as she is considered a ward of the State of California. This essentially sends the girl back to the very situation she was running away from. Furthermore, the laws of some States restrict the kinds of information that can be shared with other States; other States do not have specialized units in child prostitution, making it difficult to agree on methods of work and the best ways to share information. Stakeholders also call for more resources and capacity building of law enforcement for computer forensics and combating cybercrime more generally, with a view to accelerating and increasing the effectiveness of prosecutions.

D. Policies to combat the sale of children, child prostitution and child pornography

56. The PROTECT our Children Act 2008 requires the Department of Justice to formulate and implement a National Strategy to combat child exploitation and to submit an annual report to Congress on progress, containing a proposed set of goals and priorities for reducing child exploitation. In July 2010, the Department of Justice submitted its first report to Congress on the National Strategy for Child Exploitation, Prevention and Interdiction (the “National Strategy”). The stated overall objectives of the National Strategy are to reduce the incidence of sexual exploitation of children, and to prevent child sexual exploitation from occurring in the first place. The National Strategy identified the following five priority areas: (1) child pornography; (2) online enticement of children for sexual purposes; (3) commercial sexual exploitation of children; (4) child sex tourism; and (5) commercial sexual exploitation of children in Indian country, and reflects a threat assessment that was conducted in each of those areas. The Special Rapporteur was pleased to learn that a multi-disciplinary approach to tackling these phenomena is envisioned in the National Strategy, which must include not only investigators and prosecutors, but also social service providers, educators, medical professional, academics, non-governmental organizations, and members of industry, as well as parents and families.⁶³

57. As part of its Cyber Crime Programme, the FBI runs the Innocent Images National Initiative, which combats online child pornography. It is a central coordination point for information on individuals who indicate a willingness to travel interstate for the purpose of

⁶³ National Strategy, p. 137.

engaging in sexual activity with a minor, and also on major producers and/or distributors of child pornography.

58. The Special Rapporteur also learned about a National Internet Crimes against Children Data System (NIDS), to facilitate online law enforcement investigations of child exploitation which is run by the FBI.

59. Nevertheless, despite the above-mentioned policies and initiatives, the lack of a standardized and centralized information system running across agencies and the insufficiency of coordination were cited as challenges to effective investigation, prosecution and child protection.

E. Care and assistance programmes

60. Providing effective care and assistance to child victims of prostitution is a complex process, due to the particular nature of the difficulties they face, their history, their varied profiles and social perceptions. A significant number of the child victims of prostitution in the United States have a history of physical or sexual abuse, have run away from home or from foster care, and have, to some extent, grown accustomed to life on the street, living on their own and finding means of survival. Children who have been involved in prostitution, particularly those who have pimps, often do not see or feel the trauma they are experiencing, and have developed a strong attachment to their pimps. Thus, tailoring treatment programs to each individual case and ensuring their effectiveness is essential.

61. Through the Runaway and Homeless Youth Program, the Family and Youth Services Bureau of the Administration of Children and Families funds street outreach, short-term shelter, and longer-term transitional living and maternity group home programs.

62. Regarding complaint and reporting mechanisms, there are numerous hotlines dedicated to reporting incidents of human trafficking or child abuse or exploitation. Most notably, the Special Rapporteur was pleased to learn about the efficiency of the CyberTipline (1-800-THE-LOST). It is a Congressionally-mandated hotline, run by NCMEC, as a means of reporting incidents of child sexual exploitation including possession, manufacture, and/or distribution of child pornography; online enticement of children for sexual acts; child prostitution; sex tourism involving children; extrafamilial child sexual molestation; unsolicited obscene material sent to a child; misleading domain names, words or digital images on the Internet. Stakeholders also mentioned the effectiveness of the Amber Alert program, which activates urgent bulletins in child-abduction cases.

63. The Special Rapporteur visited programs and shelters for child victims of commercial sexual exploitation run by civil society organizations. One such program provides direct services to girl victims of commercial sexual exploitation or trafficking in New York City. The girls range in age from 11 to 23 years of age. Services include assistance with legal proceedings (court advocacy), psychological and trauma care, case management, transition to independent living (including crisis housing), education, recreational and therapeutic groups, youth employment and leadership training, vocational programs, an alternative to incarceration program and referral services. The Special Rapporteur also visited programs in Los Angeles and Atlanta, the former accepting both boys and girls. Both programs provide shelter services, schooling, and individual therapy, work closely with local law enforcement authorities, and prioritize designing life projects with the children. The shelter in Atlanta also offers family therapy.

64. The Special Rapporteur was particularly impressed with her visit to the Child Advocacy Center of Manhattan, which included child friendly spaces. The Centre is state-

run, and receives funding from the State of New York as well as from private funders. It operates on a referral basis, further to calls received on a hotline or from Child Protective Services. If deemed urgent, an investigator and a case worker are assigned to the case, and the child is sent to the Center. The Child Advocacy Centre provides multi-disciplinary care in treating a case, with staff and representatives from: administration for children's services, the New York County District Attorney's Office, the child abuse squad of the Special Victims Unit of the New York Police Department (who run a full police station in the building), Columbia University, College of Physicians and Surgeons, Safe Horizon NGO, who are all housed under one roof. As at October 2010, the Centre had received 600 cases for the year.

65. The Child Advocacy Centre deals with cases of child physical and sexual abuse, including cases of inappropriate touching and rape. The Centre occasionally receives cases of child prostitution, such as a recent case of a mother who had prostituted her own children. The Centre is linked to an NGO in the same building which focuses on human trafficking, and who can connect the child victim with direct service providers. However, the representative of the Centre admitted that addressing cases of children involved in prostitution is challenging due to a lack of suitable treatment programs.

66. Services provided include orientation, forensic interviews, client and family advocacy, and medical evaluation with a pediatrician. The multi-disciplinary team meets first with the family of the child, explains the process as well as counseling options that are available. Then one person from the team interviews the child, with representatives from child protective services, the District Attorney's Office and the New York Police Department in an observation room. The interview is not videotaped. The child also has a medical examination, where specimens are drawn and can be eventually used as evidence in legal proceedings. Child protective services are in charge of the follow up of the children who come to the centre. Children may be placed in emergency housing in downtown New York City until the child can be placed with a relative or in foster care.

67. Since different agencies must collaborate on an ongoing basis, some challenges identified include difficulties in coordinating their methods of work. The Special Rapporteur also learned about the need for more trained professionals and services that are evidence-based. The representative of the Centre also expressed the need for more work to be done on prevention of child sexual abuse and abuse within families.

68. The Special Rapporteur also visited an impressive non profit organization that provides a range of programs for high risk families in Compton, Los Angeles. Its goal is to promote family reunification and support families remaining intact in the community through the provision of comprehensive and collaborative services, based on the family centered treatment model. Programs focus on substance abuse, mental health, youth, child development, family preservation, family support (including therapy and counseling), prevention, adoption, vocational services, low-income housing, transportation and a food bank. The organization serves more than 5,000 families each year, and has a full-time staff of over 320 at three different sites in South Central Los Angeles. Testimonies revealed that a number of the beneficiaries of the programs got involved in prostitution when they were under 18.

69. A common challenge in providing care and assistance services to child victims of prostitution is that they sometimes don't view themselves as victims. If they are placed in foster care or in the social services system, or in a group home or NGO that is not locked, minors frequently run back into the streets. To address some of these concerns, a joint initiative in Las Vegas, Clark County, between a Juvenile Court Judge, the Assistant District Attorney and the Public Defender aims at establishing an integrated residential treatment facility for child victims of prostitution. The facility would consist of a safe house that is supervised by a juvenile probation officer to ensure that the girls would not try to

escape. Legal and mental health services, as well as schooling, activities and job training would be offered.

70. The Special Rapporteur was particularly impressed with the concept and work of the Georgia Care Connection, which is a state-wide initiative of the Governor's Office for Children and Families that coordinates care services for child victims of commercial sexual exploitation. It is composed of numerous stakeholders, including Juvenile Courts, law enforcement, the Department of Juvenile Justice, prosecutors, Department of Family and Child Services, community providers and safe houses. It is based on a "system of care" approach, where families and youth work together with public and private organizations to design individualized services guided by an individualized service plan. The Special Rapporteur welcomes the fact that it is child centered and community based, but regrets that these services are not yet available to boys.

71. NCMEC, a not for profit organization with a congressional mandate, provides information and resources regarding missing and exploited children in the United States. It operates as a "clearing house", with data and analysis on missing and/or sexually exploited children, as well as on traffickers and pimps, and works regularly with law enforcement to share information and track cases.

72. The Special Rapporteur is grateful to the child victims from various programs who shared their thoughts and views on challenges they face and for their suggestions on how child victims can be better protected and the exploitation of children through prostitution prevented. Suggestions include the need for more local and community-based walk in and/or crisis intervention centres and accessible mechanisms where children can share their experience, get information, or report violations. A concern expressed by one child victim was the need to strengthen ethics by the media in reporting cases of child prostitution.

73. As regards assistance to foreign child victims of trafficking, the Office of Refugee Resettlement (ORR) issues Eligibility Letters granting minor foreign victims of trafficking access to Federal benefits and services to the same extent as refugees, including placement in the Unaccompanied Refugee Minors program, which provides specialized, culturally appropriate foster care or other licensed care settings, according to children's individual needs. US Citizenship and Immigration Services of the Department of Homeland Security grants immigration relief to foreign trafficking victims, allowing them to remain and work in the United States. Victims of sex trafficking under the age of 18 do not need to show cooperation with law enforcement. Victims of other crimes, including domestic violence and sexual assault, sex tourism and other crimes affecting children, are available for similar relief. Child victims can also bring their family members to the United States. In addition, foreign victims of child abuse, abandonment, neglect and other similar crimes who are involved in one of the state welfare systems may be eligible for relief allowing them to remain and work in the United States.

74. The Special Rapporteur echoes the concerns raised by the vast majority of stakeholders she met with regarding the insufficient number of residential treatment facilities that provide integrated, comprehensive care to child victims of commercial sexual exploitation. While the TVPRA 2005 and 2008 provide for such facilities, the Special Rapporteur was informed that the funding had not yet been granted. The need for increased access to mental health services was also cited.

F. Cooperation of victims and their treatment in the justice system

75. Virtually all stakeholders, including law enforcement, state attorneys, federal prosecutors and members of civil society complained of difficulties in securing the

cooperation of child victims with the authorities in legal proceedings against pimps or traffickers.

76. Several stakeholders in numerous states visited reported on the problem of requiring child victims to testify in open court in front of their trafficker or pimp. The Special Rapporteur expresses concern that for instance, in New York State, testimony through closed circuit television is only available in the case of “demonstrated risk of significant emotional trauma” to the child. The Special Rapporteur is concerned that requiring victims to testify against their exploiters in open court as a means of obtaining a conviction can lead to re-victimization. This can be even more difficult when the exploiter deceived or coerced the victim into believing their relationship was “love.”

77. The Special Rapporteur was pleased to learn that in the State of Louisiana, video taped testimony/interviews from Child Advocacy Centres can be used as evidence in court. The use of video testimony of children is also permitted in Georgia.

78. In this regard, procedural reforms are needed to allow prosecution of perpetrators without victim/witness testimony. Requiring victims to testify against their exploiters can sometimes lead to re-victimization as the child must relive the trauma in a courtroom.

G. Prevention and tackling root causes

79. Prevention of sale of children, child prostitution and child pornography must go beyond awareness raising campaigns, and must tackle the root causes of these phenomena. As mentioned above, the high rate of runaways in the United States is one of the main factors of vulnerability of children to be involved in prostitution. The Special Rapporteur was pleased to learn that in Florida and Illinois, child protective services have the legal obligation to report missing children from their services to NCMEC. Almost all stakeholders agreed that more work needed to be done to prevent these practices from occurring in the first place.

80. In this regard, many stressed the need for more outreach work to be done with children living in the streets. The Special Rapporteur was pleased to have met with a representative of Child Protective Services of Los Angeles County and learned about the “Runaway Outreach Program”, which works directly with runaway youth or youth living in the streets, or who have a history of runaway and pre-delinquent behavior between the ages of 11 and 17. The program provides secondary case carrying assistance, focused on helping youth get off the streets, locating appropriate placement settings and providing reunification services where possible. The program assists primary child welfare services in stabilizing youth who have runaway from the care of child protective services.

81. The Special Rapporteur learned about other street outreach programs, for instance one in Los Angeles which works with about 40-60 children a day. Its outreach program includes going into the streets, informing them of their program and case management services, including psychological and medical services. Staff of this NGO often refers cases to the Child Advocacy Centre in Los Angeles, and vice versa.

82. The Special Rapporteur was pleased to learn about initiatives to tackle demand for services that exploit children. The First Offender Prostitution Programme includes, inter alia, a “John School” which is an eight-hour seminar in lieu of prosecution. Educators on the justice system, public health, domestic violence and trafficking in girls as well as former prostitutes address customers' ignorance about the nature of the sex industry, including the economics of pimping, the recruitment and abuse of young girls and the risks and effects of prostitution. This programme has been replicated in numerous States, the

evaluation of which is ongoing. She was also informed about a research project undertaken on demand for prostitution in 4 countries, including the United States.

83. The Children's Bureau was of the view that more efforts were needed to prevent over-burdening the foster care and adoption system, by focusing and increasing funding for in-home services before the need arises to remove the child from the home. While the adoption policy is to shorten the length of stay in foster care, reduce the number of children in foster care, improve the quality of services and encourage adoption when it's in the child's best interests, stakeholders called for more systems designed to identify high risk children at an early stage, and specialized programmes to address such situations. By the same token, the Children's Bureau stressed the need for improved follow-up of foster care and adoptive families.

84. As mentioned above, the Special Rapporteur expresses concern at ongoing social perceptions that children involved in prostitution "choose the life". She welcomes information that NCMEC staff has recorded some recent success in training law enforcement on the nature of commercial sexual exploitation of children: children under 18 involved in prostitution are victims of commercial sexual exploitation, rather than criminals, irrespective of the age of sexual consent.

H. Awareness-raising and capacity-building

85. The Special Rapporteur learned about numerous awareness raising campaigns regarding human trafficking, child pornography and safe internet use. While too numerous to list here, some anti-trafficking campaigns at the Department of Homeland Security include the Blue Campaign, the Hidden in Plain Sight public awareness campaign, No Te Engañes, Operation Safe Kids and Rescue and Restore Victims of Human Trafficking. The Department of Education has also prepared a Human Trafficking Fact Sheet which is distributed in schools, and developed an extensive website with numerous resources. Regarding online child pornography, a National Public Awareness Campaign regarding Internet safety was launched in 2008 by the Department of Justice in collaboration with Project Safe Childhood partners, iKeepSafe and the Hispanic Communications Network.

86. Numerous trainings have also occurred on detecting commercial sexual exploitation and on strengthening investigations and prosecutions. The Federal Law Enforcement Training Center of the Department of Homeland Security trains federal, state and local law enforcement officers on human trafficking and how to detect it. The Centre hopes to train over 200,000 officers nationwide through electronic training tools.

87. The Special Rapporteur was pleased to learn about a "survivor-led outreach program" of one of the organizations she visited, where survivors who have been beneficiaries of its services remain involved by providing awareness raising activities in schools and detention centers on commercial sexual exploitation. The staff at this NGO also trains service providers, law enforcement and legal professionals to identify signs of exploitation and on intervention techniques.

88. Worryingly, the Special Rapporteur received reports that staff at child protective services in certain jurisdictions does not receive training to identify domestic child victims of prostitution.

89. Despite the large number of awareness raising campaigns and trainings offered, the Special Rapporteur echoes the views of stakeholders that more focused campaigns and trainings on commercial sexual exploitation of domestic children are needed.

I. Monitoring

90. Despite the various complaint and reporting mechanisms described earlier, the Special Rapporteur notes, at least in the cities she visited, the absence of local and community based complaint mechanisms that are accessible to all children, without discrimination, and which protect their privacy and confidentiality. Relative mistrust of law enforcement, including local police, was frequently cited as an obstacle to timely reporting of violations.

91. The Special Rapporteur also notes the absence of an independent child rights institution tasked with monitoring measures undertaken to protect victims of and prevent the sale of children, child prostitution and child pornography, as well as restore their rights. The institution should also be tasked with monitoring the implementation and dissemination of the Optional Protocol on the sale of children, child prostitution and child pornography.

J. Cooperation with the private sector

92. The private sector has made significant steps in protecting the use of their technology from abuse by child exploiters, sometimes going beyond the minimum legal reporting requirement. Both Microsoft and America Online (AOL) use their technology to block children from sexual material and to detect child predators. The Internet Safety Program, a partnership between Microsoft and NCMEC, uses software to identify and analyze images of child pornography, report the images to NCMEC, and deny the purveyors profit. This partnership also conducts trainings for law enforcement globally; to date they have trained 1,300 law enforcement officers from eighty-nine countries on the issue of high tech crime relating to commercial sexual exploitation of children. Microsoft develops tracking capacities to detect child pornography and information-sharing systems for law enforcement, including a partnership between Interpol and the Virtual Global Task Force. Many advocates look to them as a model for incorporation of other internet service providers into child protection programs.

93. NCMEC has also been working with leading credit card companies and financial corporations to build a financial coalition against child pornography. This coalition would prevent buyers of child pornography from using electronic billing or disguised charges, thereby reducing the anonymity of the internet. AOL has worked with law enforcement to identify and report images of child pornography and the individuals who distribute them.

94. Nevertheless, some challenges remain. Allegedly, while travel and tourism companies are quite collaborative in sharing information (eg. travel records), some internet companies and to a greater extent, social networking sites, are still the most reticent in terms of sharing information with authorities. Trade unions in the transportation sector as well as the media could also play a key role in prevention and awareness raising.

K. International and regional cooperation

95. The Special Rapporteur commends the considerable efforts undertaken in the area of international and regional cooperation to combat child trafficking for the purposes of sexual exploitation. The Office to Monitor and Combat Trafficking in Persons, funds programs to combat this problem in over 60 countries that focus on prevention and restorative services for victims.

96. There is frequent cooperation with foreign law enforcement officials on child sex tourism; Operation Twisted Traveler undertaken in cooperation with Cambodia is a prime example of effective international cooperation. Some difficulties remain however, due to divergent legislation and lack of political will of some countries to cooperate in investigations and prosecutions.

97. The United States of America is a member of the Virtual Global Taskforce to combat online child abuse and it participated at the three World Congresses on Commercial Sexual Exploitation of Children and Adolescents.

98. The Special Rapporteur was also pleased to meet with representatives of the International Centre for Missing and Exploited Children, which works to share and exchange global resources to find missing children and prevent child sexual exploitation. It promotes the creation of centers around the world modeled on the National Centre for Missing and Exploited Children, provides training to relevant officials, advocates on child protection issues and organizes international expert conferences to build awareness and increase international cooperation and collaboration.

99. At the regional level, the United States of America is a member of the Organisation of American States and has adopted the regional workplan to combat human trafficking and reduce vulnerability.

IV. Conclusions and recommendations

A. Conclusions

100. **During the visit, interlocutors noted the growing availability of child pornography online, the use of ever younger children and an increase in the violence of images recorded. They further highlighted the persistence of child prostitution, principally involving girls. While it is difficult to conclude whether the increasing number of reported cases of these phenomena is due to a veritable increase, or rather due to better detection, their true scope remains difficult to measure in part due to the absence of a standardized, centralized information gathering and treatment system.**

101. **Identification and detection efforts by federal and state authorities of child pornography, particularly online, are significant and commendable. Cyber-technologies are cutting-edge, and can continue to be reinforced; rates of prosecution and conviction are on the increase and collaborative efforts across state and federal lines, evidenced by the creation of cross-agency task forces, are yielding positive results. International cooperation efforts in combating child sex tourism are equally encouraging.**

102. **The recognition of domestic minor victims of trafficking in anti-trafficking legislation and the adoption of safe harbour laws in some jurisdictions are welcome steps in the fight against child prostitution, as is the creation of initiatives such as Innocence Lost. However, a key challenge remains the lack of harmonization between Federal and state legislation, and between States, for instance regarding the definition of the age of a child. Further, law enforcement in certain jurisdictions still identifies children involved in prostitution as criminals rather than as victims. Detaining children involved in prostitution also occurs due to a lack of viable and safe placement alternatives for children where they can receive the care and protection they need.**

103. The persistence of child pornography and child prostitution as well as their complex root causes, point to an urgent need to move beyond awareness-raising campaigns. Effective prevention must include stronger support to communities and families, working on social perceptions, addressing the situation of children at risk, and tackling the demand for sex with children, particularly the roles of buyers, intermediaries and traffickers. The efficiency of strategies and programmes undertaken can be improved through better coordination and allocation of resources. In this regard, the Special Rapporteur welcomes the adoption of the National Strategy for Child Exploitation Prevention and Interdiction, but encourages the United States of America to ensure the evaluation and monitoring of its implementation.

B. Recommendations

104. In the spirit of cooperation and partnership, the Special Rapporteur makes the following specific recommendations to the Government, aimed at consolidating and strengthening ongoing efforts. She is assured that every effort will be made to implement them and stands ready to offer her full cooperation and assistance in this regard.

105. Regarding legislation, the Special Rapporteur recommends that the Government and States as appropriate:

- (a) Ratify the Convention on the Rights of the Child;
- (b) Decriminalize the involvement of children under 18 in prostitution;
- (c) Effectively implement safe harbour laws for child prostitution to ensure that all children under 18 are not treated as criminals or juvenile delinquents, irrespective of the age of sexual consent in the State;
- (d) More readily consider allowing the use of closed circuit television and/or video testimony for children under 18 years of age.

106. The Special Rapporteur recommends that the Government keep her informed of all developments regarding efforts to review regulations according to which the payment of prenatal and other expenses to birth mothers abroad would still be possible.

107. Regarding policies and strategies, the Special Rapporteur calls for the adoption of an integrated and comprehensive approach that is child centered. This is necessary due to the multidimensional and complex root causes of the phenomena, the multidisciplinary and interdisciplinary aspect of child protection and the wide range of stakeholders at different levels. The Special Rapporteur encourages the Government and States as appropriate to:

- (a) Strengthen the prevention elements of the National Strategy for Child Exploitation, Prevention and Interdiction; add child protection indicators, thus allowing for an integrated policy, monitoring of its implementation and measure of its impact.
- (b) Undertake a mapping of actors and programmes to avoid duplication and increase clarity;
- (c) Strengthen the sharing of information and collaboration between the federal and state law enforcement authorities, and between states. To the extent possible, this should include harmonizing methods of work to increase efficiency;

(d) Follow up and evaluate strategies, programmes and practices by establishing child protection indicators to measure impact of these strategies and the evolution of the situation of children.

108. Regarding care and assistance programs the Special Rapporteur recommends that the Government, and States as appropriate:

(a) Create a special section within state/county child protective services trained and specialized in working with children involved in prostitution;

(b) Increase the number of programs, at the local level, which provide multi-disciplinary care and assistance (medical, legal, psychological) to child victims of commercial sexual exploitation;

(c) Establish child friendly complaint mechanisms, accessible to children at the local level and without discrimination, which guarantee the privacy and confidentiality of children;

(d) Increase and systematize psychological assistance/evaluations for officers and officials working on child prostitution and child pornography;

(e) Strengthen Child Advocacy Centres across the country by ensuring that they have child friendly spaces and are provided with sufficient financial and human resources.

109. Regarding prevention, the Special Rapporteur recommends that the Government and States as appropriate:

(a) Strengthen human resources and increase funding to child protective services;

(b) Increase funding for in-home and family-based services before the need arises to remove the child from the home, and increase access to social and economic services to vulnerable children, families and communities;

(c) Increase and strengthen the provision of mental health care services at the state and local level;

(d) Strengthen follow-up procedures of foster care and adoptive families;

(e) Promote social norms with a view to changing perceptions and attitudes regarding child prostitution;

(f) Increase research and analysis on the phenomena and on the profile of clients of child prostitution and child pornography, with a view to tackling demand.

110. Regarding training, the Special Rapporteur recommends that the Government, and States as appropriate:

(a) Strengthen capacity of law enforcement officers, prosecutors, judges, teachers and other professionals working directly with children on how to identify cases of commercial sexual exploitation of children, and on how to address them within their respective environments. Training activities should identify and address social perceptions, and highlight that the involvement of children in prostitution is exploitation not a choice;

(b) Increase resources and training of law enforcement for computer forensics and combating cybercrime more generally, with a view to accelerating and increasing the effectiveness of prosecutions.

111. The Government should establish a standardized and centralized information-gathering system which should provide for disaggregating data by sex, age, type of

violation and measures taken, as well as harmonized methods of gathering and processing data.

112. Regarding child participation, the Government, and States as appropriate, should increase information, to consultation and participation of children in all matters affecting them.

113. Regarding monitoring, the Special Rapporteur calls for the establishment of an independent child rights institution tasked with monitoring measures undertaken to protect victims of and prevent the sale of children, child prostitution and child pornography, as well as restore their rights. The institution should also be tasked with monitoring the implementation of and disseminating the Optional Protocol on the sale of children, child prostitution and child pornography.

114. Regarding Corporate social responsibility, the Special Rapporteur encourages the Government to develop and strengthen partnerships with the private sector, particularly tourism agencies, travel agencies, internet service providers, telecommunication companies, banks, trade unions in the transportation sector, and media in all efforts to combat the sexual exploitation of children, including child sex tourism and the exploitation of children online.

115. Regarding international and regional cooperation, the Government should continue pursuing cooperation through technical and logistical assistance on themes such as combating cybercrime, trafficking, transnational organized crime, by sharing information relating to the detection of the crimes and identification of child victims, and to the prosecution of offenders.

Appendix

Federal level

Department of State

Assistant Secretary of State, Bureau of International Organizations
Ambassador-at-Large and staff, Office to Monitor and Combat Human Trafficking
Bureau of International Organizations
Bureau of Human Rights, Democracy and Labor
Office of the Legal Advisor
Bureau of Consular Affairs

Department of Justice

National Coordinator for Child Exploitation Prevention and Interdiction, Office of the Deputy Attorney General
Child Exploitation and Obscenity Section, Criminal Division
INTERPOL Washington, United States National Central Bureau
Federal Bureau of Investigation,
Program/Policy Support & Evaluation, Office of Community Oriented Policing Services
Office of Justice Programs

Department of Homeland Security

Federal Law Enforcement Training Center
US Immigration and Customs Enforcement
US Secret Service
US Customs and Border Protection
US Citizenship and Immigration Services
Office for Civil Rights and Civil Liberties

Department of Labour

Department of Health and Human Services

Children's Bureau, Administration for Children and Families
Office of Refugee Resettlement, Administration for Children and Families

Department of Education

New York State

Assistant District Attorney Manhattan
Assistant District Attorney Brooklyn
New York Police Department
Child advocacy centre, Manhattan
Federal prosecutor

California

Los Angeles Police Department
Los Angeles County Department of Child and Family Services
District Attorney Los Angeles County
US Attorney's Office – Los Angeles

Nevada

Las Vegas Metropolitan Police Department (Vice)
Judge Family Court
Public Defender
District Attorney Clark County
Visit to detention centre annexed to family court

Louisiana

New Orleans Child Protective Services
Deputy Mayor Public Services
District Attorney

Georgia

Governor's Office for Children and Families
Atlanta Police Department
Federal Bureau of Investigation
District Attorney
