



**Convention on the  
Rights of the Child**

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**Committee on the Rights of the Child**

**Consideration of reports submitted by States  
parties under article 12, paragraph 1, of the  
Optional Protocol to the Convention on the Rights  
of the Child on the sale of children, child  
prostitution and child pornography**

**Reports of States parties due in 2004**

**Honduras\***

[Date received: 15 November 2012]

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## Introductory remarks

It is with great pleasure and in a spirit of commitment to the children of Honduras that the President of the Republic, Mr. Porfirio Lobo Sosa, acting in his capacity as general administrator of the State of Honduras, and the Ministry of Justice and Human Rights, led by Ms. Ana A. Pineda Hernandez, address the United Nations Committee on the Rights of the Child to submit the initial report of the State of Honduras, pursuant to article 8 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

In the context of international commitments and obligations related to protecting the rights of the child, it is important to note that Honduras signed the Convention on the Rights of the Child on 24 July 1990 pursuant to Legislative Decree No. 75-90 and that its instrument of ratification was deposited with the Secretary-General of the United Nations on 10 August 1990 and published in Official Gazette No. 26,259 of 10 October 1990.

In compliance with this important international instrument, Honduras adopted the Code on Children and Adolescents pursuant to Legislative Decree No. 73-96 of 30 May 1996, published in Official Gazette No. 28,053 on 5 September 1996. In addition, acting in accordance with its commitment to the rights of the children of Honduras, the State also adopted the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography pursuant to Legislative Decree No. 62-2002 of 2 April 2002, and its instrument of accession was deposited with the Secretary-General of the United Nations on 7 May 2002.

In its periodic reports submitted under article 44 of the Convention on the Rights of the Child in 1994, 1997 and 2007, Honduras has previously informed the Committee on the Rights of the Child about the progress made in fulfilling its obligations under the Protocol, referring to the issue as the “commercial sexual exploitation of children and adolescents”, a term that is also used in the present report.

The most important achievements by the Government of Honduras, which it has already reported to the Committee, include the following: (a) in 2002 the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons was established and began operations, although it was not officially instituted until 2004. The Inter-Agency Commission is responsible for advising legislative, administrative and other bodies with regard to commercial sexual exploitation, and it brings together 52 governmental organizations, non-governmental organizations (NGOs) and international cooperation agencies; (b) a new chapter was added to the Criminal Code on commercial sexual exploitation offences.

This initial report informs the Committee on the Rights of the Child about the legislative, administrative, judicial and other measures taken to ensure compliance with the Optional Protocol, while also describing the difficulties or obstacles hindering implementation of the Optional Protocol and the challenges faced in that regard.

The Ministry of Justice and Human Rights, through its International Commitments Directorate, coordinated the preparation of this report by means of a process that involved the broad participation of representatives of all three branches of Government, the Office of the Special Prosecutor for Children attached to the Public Prosecution Service, independent institutions and civil society organizations working on issues related to the rights of children and young people, as well as international cooperation agencies.

Participating public institutions included the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Security, the Ministry of Finance, the Ministry of the Interior and Population, the Ministry of Education, the Ministry of Social Development, the Technical Secretariat of Planning and External Cooperation, the Ministry of Tourism, the Ministry of Health, the Office of the Special Prosecutor for Children attached to the Public Prosecution Service, the Honduran Institute for Children and the Family, the National Institute for Youth and the National Institute for Women.

As for civil society, the member organizations of the COIPRODEN children's rights network actively participated in the process. The network consists of 33 organizations working to protect and defend the rights of children in Honduras, including SOS Children's Villages, Asociación de Padres y Amigos de Niños y Jóvenes Especiales (APANJE), Asociación Brigadas de Amor Cristiano (ABAC), Hogar Renacer, Asociación COMPARTIR, Asociación Hondureña de Apoyo al Autista (APOAUTIS), Asociación Juventud Renovada (Hogar Diamante), Asociación Cristiana de Jóvenes (ACJ), Casa Alianza Honduras, Casa del Niño, Centro de Formación, Capacitación y Gestión Social (CENFODES), Centro San Juan Bosco, Asociación de Consultores Municipales para el Desarrollo (COMUPADE), Fundación Abrigo, Fundación Desarrollo, Amistad y Respuesta (FUNDAR), Fundación Hondureña de Rehabilitación e Integración del Limitado (FUHRIL), Fundación Antonio Nasser (FUNDANASE), Fundación Ambos, GOAL International Honduras, Hogar Nuevo Amanecer, Hogar San Jerónimo Emiliano, Instituto Psicopedagógico "Juana Leclerc", Médecins sans frontières, Muchachas Guías de Honduras, Nuestros Pequeños Hermanos, Olimpiadas Especiales, ONG-Gaviota, Programa de Rehabilitación de Parálisis Cerebral (PREPACE), Prevención de Discapacidades (PreNatal Honduras), Alternativas y Oportunidades, REPAHDEG, Unidos para Mejorar, World Vision Honduras, Proyecto Victoria, Asociación Libre Expresión and Save the Children Honduras.

During the process, technical support was also provided by the Office of the United Nations High Commissioner for Human Rights through the United Nations Human Rights Adviser in Honduras, and permanent support was provided by the United Nations Children's Fund (UNICEF) in Honduras, with whom the Ministry of Justice and Human Rights organized a training session entitled "Submitting reports to international human rights mechanisms, with a focus on the workings of the Committee on the Rights of the Child". That session was attended by institutions and organizations participating in the round table established to prepare the report.

The Ministry of Justice and Human Rights, together with the COIPRODEN children's rights network and UNICEF in Honduras, held an awareness-raising day about the initial report with children and young people from the Young Journalists Network of Honduras and the COIPRODEN network.

During that session, the content and scope of the Convention and its Optional Protocols were discussed with the participants; this initial report was then presented, and guidelines developed by children and young people — whose contributions appear in this report — were prepared on the subject.

The present report outlines the legislative, administrative, judicial and other measures the State has taken to ensure compliance with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, emphasizing that the State of Honduras is a party to or is in the process of becoming a party to most international human rights instruments, including those concerning children and young people — established under both the universal and the inter-American human rights protection systems — that address issues covered by the Protocol.

As stipulated in the Constitution, international instruments form part of national law and, in relation to the implementation of the Protocol, constitute legislative measures to combat the commercial sexual exploitation of children and adolescents at the national and international levels.

In order to specifically address the situation of children and young people in relation to the issues dealt with in the Optional Protocol, Honduras has become a party to many international legal instruments, including:

- (a) International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29);
- (b) International Covenant on Civil and Political Rights (1966);
- (c) American Convention on Human Rights (1969);
- (d) International Convention on the Elimination of All Forms of Racial Discrimination (1969);
- (e) Convention on the Civil Aspects of International Child Abduction (1980);
- (f) Convention on the Elimination of All Forms of Discrimination against Women (1979);
- (g) Convention on the Rights of the Child (1989);
- (h) The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará) (1994);
- (i) Inter-American Convention on International Traffic in Minors (1994);
- (j) Rome Statute of the International Criminal Court (1998);
- (k) ILO Worst Forms of Child Labour Convention, 1999 (No. 182);
- (l) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000);
- (m) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002);
- (n) United Nations Convention against Transnational Organized Crime (2000);
- (o) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
- (p) Ibero-American Convention on Young People's Rights (2005);
- (q) Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (1993).

Moreover, in accordance with its obligation to guarantee the rights of children and young people, Honduras has taken on other significant international obligations in respect of the commercial sexual exploitation of children and adolescents in the context of the following world congresses against commercial sexual exploitation:

- (a) First World Congress against Commercial Sexual Exploitation of Children: Stockholm, 1996;
- (b) Second World Congress against Commercial Sexual Exploitation of Children: Yokohama, 2001;

(c) Third World Congress against Commercial Sexual Exploitation of Children: Rio de Janeiro, 2008.

At the same time, Honduras extends the rights of children and young people and upholds its obligations towards them at the national level, as stipulated in the Constitution and in many subsidiary laws.

The most significant development in this field has been the adoption of Legislative Decree No. 59-2012 of 25 April 2012, published in Official Gazette No. 32,865 on 6 July 2012, which approved the Trafficking in Persons Act, thereby facilitating the punishment of the various forms of trafficking listed in the United Nations Convention against Transnational Organized Crime and its Protocol. The Act establishes the institutional framework and lays down the functions of the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons, defining its institutional powers and responsibilities with regard to caring for victims and preventing commercial sexual exploitation offences and trafficking.

In addition, a comprehensive reform that will bring family and child law into line with international standards is currently awaiting congressional approval.

Honduras recognizes that the aim of the Optional Protocol is to encourage the adoption of legislative, judicial and administrative measures to protect children and young people from sale, child prostitution and child pornography, without any discrimination and without any provisions that might limit or restrict their rights, in accordance with the definition of discrimination established by the Committee on the Rights of the Child, which follows the principle of non-discrimination as set out in the Constitution, the Convention on the Rights of the Child and national law.

For the State of Honduras and the civil society organizations that actively participated in the preparation of this report and demonstrated their commitment to the rights of the child, that process provided a valuable opportunity to reflect on the national context, the situation regarding children's rights, the adverse effects of the sale of children, child prostitution and child pornography on the lives of the children and young people involved and on Honduran society, and the transnational nature of such phenomena. It also served as an opportunity to review the legislative, administrative, and other measures that the State has adopted as well as those still pending and to assess the State's fulfilment of its obligations in this field in respect of the Optional Protocol and the Convention on the Rights of the Child.

At the same time, it made it possible to review the measures that the Committee on the Rights of the Child has suggested that the State should consider adopting to prevent and prohibit such phenomena, and to discuss new challenges also faced by neighbouring countries such as El Salvador, Guatemala, Mexico and others that have been used as a corridor for trafficking in persons.

On the basis of its duty to guarantee rights, Honduras recognizes that the process of preparing the report is but a starting point for the continued promotion of constitutional and legal measures to prevent, investigate and punish the sale of children, child prostitution and child pornography. It is also committed to working towards the adoption of the remaining legislative, administrative and other measures referred to in this report as preventive mechanisms that are necessary to ensure that the acts prohibited under the Optional Protocol are never perpetrated.

Lastly, in the light of the country's constitutional rights and guarantees, we wish to reaffirm to the Committee on the Rights of the Child our general commitment to respect and protect the dignity of the human person as the ultimate aim of society and the State, and to respect and protect the dignity of Honduran children and young people in particular, on the basis of the principle of the best interests of the child.

Tegucigalpa, Honduras, October 2012.

Porfirio **Lobo Sosa**  
President of the Republic of Honduras

Ana A. **Pineda H.**  
Minister of Justice and Human Rights



## I. Introduction

1. Honduras adopted the Convention on the Rights of the Child on 24 July 1990 pursuant to Legislative Decree No. 75-90. Its instrument of ratification was deposited with the Secretary-General of the United Nations on 10 August 1990 and was published in Official Gazette No. 26,259 of 10 October 1990.
2. In compliance with this important international instrument, Honduras adopted the Code on Children and Adolescents pursuant to Legislative Decree No. 73-96 of 30 May 1996, published in Official Gazette No. 28,053 on 5 September 1996.
3. Honduras adopted the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography pursuant to Legislative Decree No. 62-2002 of 2 April 2002, published in Official Gazette No. 28,777 on 3 May 2002. Its instrument of accession was deposited with the Secretary-General of the United Nations on 7 May 2002.
4. In its periodic reports submitted under article 44 of the Convention on the Rights of the Child in 1994, 1997 and 2007, the State of Honduras has previously informed the Committee on the Rights of the Child about the progress made in fulfilling its obligations under the Optional Protocol, referring to the issue as the “commercial sexual exploitation of children and adolescents”, a term that is also used in the present report.
5. One of the most important achievements, already reported to the Committee, was that in 2002 the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons was established and began operations; however, it was not officially instituted until 2004.
6. The Commission is responsible for advising on legislative, administrative and other measures concerning commercial sexual exploitation, and it brings together 52 governmental organizations, NGOs, international cooperation agencies and State institutions.
7. Another significant development already reported to the Committee is the inclusion of a new chapter in the Criminal Code on commercial sexual exploitation offences, the content and scope of which are described in this report.
8. This initial report, submitted by Honduras to the Committee on the Rights of the Child pursuant to article 12, paragraph 1, of the Protocol, describes the legislative, administrative, judicial and other measures taken to ensure compliance with this international legal instrument and also describes the difficulties or obstacles hindering implementation of the Protocol.
9. The Ministry of Justice and Human Rights, through its International Obligations Directorate, coordinated the preparation of this report by means of a process that involved the broad participation of representatives of all three branches of Government, the Office of the Special Prosecutor for Children attached to the Public Prosecution Service, independent institutions and civil society organizations working on issues related to the rights of children and young people, as well as international cooperation agencies.
10. Participating public institutions included the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Security, the Ministry of Finance, the Ministry of the Interior and Population, the Ministry of Education, the Ministry of Social Development, the Technical Secretariat of Planning and External Cooperation, the Ministry of Tourism, the Ministry of Health, the Office of the Special Prosecutor for Children within the Public

Prosecution Service, the Honduran Institute for Children and the Family, the National Institute for Youth and the National Institute for Women.

11. As for civil society, various workshops were held with the member organizations of the COIPRODEN children's rights network, which consists of 33 organizations working to fully protect the rights of children in Honduras, including Casa Alianza Honduras, SOS Children's Villages, Asociación de Padres y Amigos de Niños y Jóvenes Especiales (APANJE), Asociación Brigadas de Amor Cristiano (Hogar Renacer), Asociación COMPARTIR, Asociación Hondureña de Apoyo al Autista (APOAUTIS), Asociación Juventud Renovada (Hogar Diamante), Asociación Cristiana de Jóvenes (ACJ), Casa del Niño, Centro de Formación, Capacitación y Gestión Social (CENFODES), Centro San Juan Bosco, Asociación de Consultores Municipales para el Desarrollo (COMUPADE), Fundación Abrigo, Fundación Desarrollo, Amistad y Respuesta (FUNDAR), Fundación Hondureña de Rehabilitación e Integración del Limitado (FUHRIL), Fundación Antonio Nasser (FUNDANASE), Fundación Ambos, GOAL International Honduras, Hogar Nuevo Amanecer, Hogar San Jerónimo Emiliano, Instituto Psicopedagógico "Juana Leclerc", Médecins sans frontières, Muchachas Guías de Honduras, Nuestros Pequeños Hermanos, Olimpiadas Especiales, ONG-Gaviota, Programa de Rehabilitación de Parálisis Cerebral (PREPACE), Prevención de Discapacidades (PreNatal Honduras), Alternativas y Oportunidades, REPAHDEG, Save the Children Honduras, Unidos para Mejorar, World Vision Honduras, Proyecto Victoria and Comité por la Libre Expresión (C-Libre), among others.

12. Technical support was provided by the Office of the United Nations Human Rights Adviser in Honduras and all-round support by UNICEF in Honduras, with whom the Ministry of Justice and Human Rights organized a training session entitled "Submitting reports to international human rights mechanisms, with a focus on the workings of the Committee on the Rights of the Child". That session was attended by institutions participating in the round table established to prepare the report.

13. The Ministry of Justice and Human Rights, together with the COIPRODEN children's rights network and UNICEF in Honduras, held an awareness-raising day about this initial report with 60 children and young people from the Young Journalists Network of Honduras and the COIPRODEN network.

14. During that session, the content and scope of the Convention and its Optional Protocols were discussed with the participants; this initial report was then presented, and guidelines developed by children and young people — whose contributions appear in this report — were prepared on the subject.

15. This initial report was drafted in accordance with the revised guidelines regarding initial reports to be submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, dated September 2006 (CRC/C/OPSC/2).

## **II. General measures of implementation**

### **A. Normative framework**

16. The legislative measures the Government has taken to implement the Protocol include the adoption of national legislation as well as international legal instruments, as both are part of national law according to the Constitution.

## 1. International instruments (conventions and treaties)

17. Honduras is a party to or is in the process of becoming a party to most of the international human rights instruments established under both the international and the inter-American human rights protection systems to address issues covered by the Protocol.

18. Pursuant to the Constitution, these instruments are part of national law and, in relation to the implementation of the Protocol, constitute legislative measures to combat the commercial sexual exploitation of children and adolescents at the national and international levels. At the same time, they serve as standards that safeguard the fundamental rights of children and adolescents.

19. As for specifically addressing the situation of children and adolescents in relation to issues dealt with in the Optional Protocol, an extensive list of international legal instruments is given below:

### Universal system

(a) Convention on the Rights of the Child (1989). Ratified by Honduras on 28 August 1990 and deposited with the United Nations on 10 August 1990;

(b) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002). Acceded to on 6 May 2002 and deposited by Honduras with the United Nations on 8 May 2002;

(c) International Covenant on Civil and Political Rights (1966). Ratified by Honduras on 29 July 1997 and deposited with the United Nations on 25 August 1997;

(d) International Convention on the Elimination of All Forms of Racial Discrimination (1969). Acceded to on 13 September 2002 and deposited by Honduras with the United Nations on 10 October 2002;

(e) Convention on the Elimination of All Forms of Discrimination against Women (1979). Ratified by Honduras on 3 September 1981 and deposited with the United Nations on 3 March 1983;

(f) United Nations Convention against Transnational Organized Crime (2003). Signed by Honduras on 14 December 2000 and deposited with the United Nations on 2 December 2003;

(g) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). Acceded to on 8 July 2005 and deposited by Honduras with the United Nations on 9 August 2005;

(h) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000). Acceded to by Honduras on 1 April 2008;

(i) Rome Statute of the International Criminal Court (1998). Ratified by Honduras on 26 June 2002 and deposited with the United Nations on 1 July 2002;

(j) Convention on the Civil Aspects of International Child Abduction (1980). Ratified by Honduras on 20 December 1993 and entered into force on 1 March 1994;

(k) Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (1993). Awaiting approval, for which it was referred to Congress by the Office of the President under Executive Decision No. 11 DGTC;

(l) ILO Forced Labour Convention, 1930 (No. 29). Ratified by Honduras on 21 February 1957;

(m) ILO Worst Forms of Child Labour Convention, 1999 (No. 182). Ratified by Honduras on 20 September 2001 and deposited with ILO on 25 October 2011.

**Inter-American system**

(a) American Convention on Human Rights (1969). Ratified by Honduras on 5 September 1977 and deposited with the Organization of American States on 8 September 1977;

(b) Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará) (1994). Ratified by Honduras on 4 July 1995 and deposited with the Organization of American States on 12 July 1995;

(c) Inter-American Convention on International Traffic in Minors (1994). Acceded to by Honduras on 23 October 2008;

(d) Ibero-American Convention on Young People’s Rights (2005). Deposited by Honduras with the Ibero-American Youth Organization on 16 April 2007.

**2. Other major international commitments with respect to the commercial sexual exploitation of children and adolescents**

20. There are other sources of obligations regarding the human rights of children and adolescents who are victims of commercial sexual exploitation and trafficking. These chiefly include:

**(a) First World Congress against Commercial Sexual Exploitation of Children: Stockholm, 1996**

21. Honduras participated in the Congress and affirmed its commitment to prohibit the sexual exploitation of children and adolescents. It adopted the Declaration and Agenda for Action, thereby committing itself to working towards its implementation.

**(b) Second World Congress against Commercial Sexual Exploitation of Children: Yokohama, 2001**

22. Honduras also participated in the second Congress, which aimed to boost political commitment to implement the Agenda for Action, analyse the progress achieved in its implementation, share experiences and good practices, identify the main problem areas and/or gaps in the fight against the commercial sexual exploitation of children and adolescents, and strengthen follow-up to the first World Congress.

23. The Agenda for Action adopted at the First Congress and the Declaration adopted at the second Congress led various States, including Honduras, to commit themselves to developing a national action plan to combat commercial sexual exploitation, which would serve as a central planning tool for coordinated efforts to prevent and eradicate the commercial sexual exploitation of children and adolescents. This commitment will be described in further detail in the section on prevention.

**(c) Third World Congress against Commercial Sexual Exploitation of Children: Rio de Janeiro, 2008**

24. Honduras was represented at the Congress via by members of the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons, who, acting on behalf of the State, signed the Rio de Janeiro Declaration and expressed the Government’s commitment to the goals and targets contained in the Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents.

### 3. National legislation

25. The rights of children and young people in Honduras and the State's obligations concerning them are set out in the Constitution and in many subsidiary laws, the most important of which are listed below:

(a) Constitution. Chapter III on social rights, article 111, stipulates that children shall enjoy the protection of the State (Legislative Decree No. 131, published in the Official Gazette on 11 January 1982);

(b) Code on Children and Adolescents (1996). Pursuant to the Convention on the Rights of the Child, the Code serves as the legal instrument containing the essential principles and guidelines to ensure children's general welfare (Legislative Decree No. 73-96, published in the Official Gazette on 5 September 1986);

(c) Reform of Title II of the Second Book, a special part of the Criminal Code that defines commercial sexual exploitation offences (2005). The reform updated the provisions on sexual abuse to establish the underage status of the victim as an aggravating circumstance for sexual abuse offences. A chapter specifically on commercial sexual exploitation and trafficking was also introduced (Legislative Decree No. 234-2005, published in Official Gazette No. 30,920 of 4 February 2006);

(d) Trafficking in Persons Act. Legislative Decree No. 59-20121 of 30 May 2012, published in Official Gazette No. 32,865 on 6 July 2012. On 25 April 2012, at the request of the Ministry of Justice and Human Rights, together with the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons and civil society organizations, Congress, having concluded its discussions, adopted the Trafficking in Persons Act to supplement the 2005 reform of the Criminal Code, which included provisions on commercial sexual exploitation offences. The purpose of the Act is to lay the basis for, inter alia:

- (i) Formulating public policies to prevent and punish trafficking in persons;
- (ii) Establishing the legal framework required for increasing the penalties for trafficking in persons;
- (iii) Establishing a specific, complementary framework for protecting and assisting victims of commercial sexual exploitation and human trafficking;
- (iv) Facilitating the restitution and promotion of victims' rights; and
- (v) Structuring, boosting and facilitating national and international cooperation in the fight against trafficking in persons;

(e) Act on the Honduran Institute for Children and the Family (1997). The Act establishes the Honduran Institute for Children and the Family and defines its objectives (chap. II, art. 4), which are to:

- (i) Formulate and implement State policies on children, adolescents and families;
- (ii) Promote respect for the rights of the child in society at large;
- (iii) Coordinate the participation of State and private-sector institutions in the planning and implementation of measures to ensure the comprehensive protection of children and families;
- (iv) Establish a system of alternative measures and services to avoid the institutionalization of children and adolescents for social reasons; and

(v) Promote and support the involvement of citizens and communities in the construction of a system of opportunities for children and families (Legislative Decree No. 199-97, published in the Official Gazette on 29 December 1997);

(f) National Registration of Persons Act. One of the purposes of the National Registry of Persons is to register the births of all children and provide them with identity documents, so as to fulfil the right of children and adolescents to a name and a nationality. It is a key instrument used in national planning for children (Legislative Decree No. 62-2004, published in the Official Gazette on 15 May 2004). In order to expand the coverage of its services, the Registry has now established a mobile programme that operates mainly in rural areas;

(g) Organic Act on the National Police. The Act establishes mechanisms for international cooperation with the police forces of other States and with international law enforcement bodies, and “particularly with the other Central American countries, in order to combat crime, especially that associated with the trafficking of women and children, the smuggling of people and arms, and offences of an international nature” (art. 39, No. 28);

(h) Act on Migration and Foreign Nationals (2003). The Act regulates State migration policy and recognizes the need for special protection for migrants who have suffered sexual violence, gender-based violence or other forms of persecution involving human rights violations in their countries of origin (Legislative Decree No. 208-2003, published in the Official Gazette on 3 March 2004);

(i) Framework Act on the Comprehensive Development of Young People (2006). Its purpose is to establish a legal, political and institutional framework to promote the comprehensive development of young people and to guide State policy on young people. With regard to sectoral policies, it provides that socially oriented programmes, individual-focused programmes and social risk prevention programmes will be established as a matter of priority to prevent violence, drug use, prostitution and other threats, while recognizing the right of young people to have access to job opportunities that are safe and free of exploitation and do not interfere with their schooling or training (Legislative Decree No. 260-2005, published in the Official Gazette on 16 January 2006);

(j) Domestic Violence Act (1997). This is a public order law, whose provisions are intended to protect women’s physical, psychological and sexual integrity and the integrity of their property and to establish protective measures for the children of battered women (Legislative Decree No. 132-97, published in the Official Gazette on 15 November 1997);

(k) Act establishing the Vision for the Country and Plan for the Nation (2010–2038). Guideline 1 states that, in order to achieve sustainable development for the people of Honduras, the capacities and potential of children, adolescents and young people should be developed so that the country may respond to the major challenges of development in a globalized world (Legislative Decree No. 286-2009, published in the Official Gazette on 2 February 2010);

(l) HIV/AIDS Act. The Act establishes, inter alia, that the State has an obligation to care for children and young people deprived of their family environment as a result of AIDS (art. 69); it also states that it is in the national interest to prevent HIV/AIDS among children, young people and the general public (art. 2) (Legislative Decree No. 147-2009, published in Official Gazette No. 29,020 on 13 November 1999).

## B. Applicability of the Optional Protocol in Honduras

26. Article 15 of the Constitution stipulates that the State “endorses the principles and practices of international law whose aim is human solidarity, the self-determination of peoples, non-intervention, peace and universal democracy”. This provision opens the door to many sources of relevant international obligations, including international treaties (agreements, conventions, covenants and optional protocols), customary law or international custom, general principles of law and decisions and rulings by international courts.

27. Articles 16 and 18 of the Constitution lay down the legal value and status of treaty obligations in the legal order of Honduras. Article 16, paragraph 2, stipulates that “international treaties concluded by Honduras with other States become part of national law upon their entry into force”, while article 18 states that “should a treaty or convention conflict with the law, the former shall prevail”. Thus, the Optional Protocol has been part of the internal legal order from the moment of ratification and ranks above all other national laws.

28. Regarding the specific scope of international human rights treaties, national laws build on constitutional provisions and the Constitution and international treaties have equal ranking. Article 41 of the Constitutional Justice Act stipulates that “the State shall guarantee the remedy of *amparo*. Consequently, any aggrieved person or anyone acting on behalf of that person has the right to bring an *amparo* action:

(1) In order to preserve or recover the enjoyment of rights or guarantees set forth in the Constitution, treaties, conventions and other international instruments.” Thus, it may easily be inferred that rights covered in the Optional Protocol occupy a status in the internal order comparable only to that of rights enshrined in the Constitution.

## C. Definition of child and adolescent in national law

29. Article 1 of the Code on Children and Adolescents stipulates that “minors are made up of the following groups: children, from birth to the age of 12 for boys and 14 for girls, and adolescents, from the age of 12 or from 14 to 18”, and that “should a child’s age be in doubt, it shall be assumed that the child is under 18 until such time as his or her real age is established”.

30. The Government has taken note of recommendations 28 and 29 contained in the Committee’s concluding observations regarding the third periodic report of Honduras on its implementation of the Convention on the Rights of the Child, which state that “the use of the biological criterion of puberty to set different ages of maturity between boys and girls” conflicts with the Convention, where no such distinction is made.

31. Article 3 of the Code sets forth the sources of law applicable to children and adolescents, namely the Constitution, the Convention and other treaties and agreements to which Honduras is a party and that contain relevant provisions. In other words, the definition contained in the Convention supplants the one in the Code and renders it inapplicable, once again demonstrating that treaties prevail over the law, as will be further illustrated below.

32. In order to bring the Code into line with the Convention and implement the Committee’s recommendations regarding inconsistencies in national laws on children, the Ministry of Justice and Human Rights and the Office of the First Lady resumed work on a bill initiated years earlier by various State bodies and civil society to harmonize child and family law.

33. With the support of an inter-agency commission composed of representatives of the judiciary, the Public Prosecution Service, the Honduran Institute for Children and the Family, UNICEF, the United States Agency for International Development (USAID) and the Central American Integration System (SICA), as well as with the constant guidance of the congressional Judicial Affairs Committee, the final draft of the reform bill was prepared and subsequently approved by the Judicial Affairs Committee and submitted to the General Secretariat of Congress for debate and adoption.

34. The bill would amend article 1 of the Code to read:

“For the purposes of this Code, anyone under the age of 18 shall be considered a child. The provisions of this Code are a matter of public policy and the children’s rights set forth in it are inalienable and immutable and must be observed in all administrative, judicial or other acts, decisions and measures taken with regard to persons under 18, who for all legal purposes shall be considered children.

Should a child’s age be in doubt, it shall be assumed that the child is under 18 until such time as his or her real age is established.”

## **D. Compliance of the implementation of the Optional Protocol with the general principles of the Convention**

### **1. Non-discrimination (art. 2 of the Convention)**

35. The principle of equality and non-discrimination is a right enshrined in article 60 of the Constitution: “All persons are born free and equal in rights. There are no privileged classes in Honduras. All Hondurans are equal before the law. All forms of discrimination on the grounds of sex, race, class or any other reason prejudicial to human dignity shall be liable to punishment.”

36. The Code on Children and Adolescents lays down a broad range of rights applicable to all children and adolescents, with no distinction whatsoever. For example, article 28 stipulates that all children have the right to “freely participate in family and community life, without discrimination on any grounds”.

37. The recently adopted Trafficking in Persons Act explicitly deals with the principle of non-discrimination, establishing that “irrespective of any criminal or administrative proceedings under way to investigate the offence of trafficking in persons, the provisions of this Act shall be implemented so as to guarantee that victims are not discriminated against on the grounds of ethnicity, sex, age, language, religion, sexual orientation, political or other opinions, origin, nationality, economic status or any other social or migratory condition”.

38. The Government understands that the purpose of the Optional Protocol is the adoption of legislative, judicial and administrative measures to protect children and adolescents from sale, prostitution and pornography without limiting or restricting their rights, in keeping with the definition of discrimination set out by the Committee on the Rights of the Child, which corresponds to the principle of non-discrimination found in the Constitution, the Convention and national laws.

### **2. Best interests of the child (art. 3)**

39. The best interests of the child or adolescent constitute the guiding principle of all legislative, judicial, administrative and other measures directly relating to the minors of Honduras. Article 7 of the Code on Children and Adolescents mandates the consideration of the best interests of the child as follows:



“Judges and administrative officials who hear cases concerning one or more children shall, when considering the facts, take into account the prevailing practices and customs in the children’s social and cultural setting. Where applicable, they shall also consult with the community’s traditional authorities and take account of their recommendations, provided that such recommendations are not contrary to the law or the best interests of the children.”

40. The Trafficking in Persons Act stipulates that “the best interests of the child or adolescent shall be the main consideration in all actions taken in respect of minors with a view to ensuring their full reintegration in society, through the exercise, enjoyment and restitution of any rights violated; recognizing persons under 18 as rights holders; and taking decisions that benefit them”.

41. The State has endorsed this principle, making it mandatory to prioritize children and adolescents in plans, programmes, policies and administrative and judicial procedures for the prevention, eradication and punishment of acts prohibited under the Optional Protocol.

### **3. Right to life, development and survival (art. 6)**

42. Article 65 of the Constitution establishes that “the right to life is inviolable”.

43. Article 12 of the Code on Children and Adolescents also guarantees the right to life, stipulating that “every human being has the right to life from the moment of conception. The State shall protect this right by adopting all necessary measures to ensure that human dignity is safeguarded during gestation, birth and development”. The right to health and social security are laid down in subsequent articles.

44. The right to life is crucial insofar as it is a prerequisite for the development and enjoyment of the other rights to which all children and adolescents are entitled, including health, education, family, social security, dignity, personal freedom, freedom of expression, nationality, identity, name and self-image, culture, sports, recreation and leisure, the environment and natural resources, in addition to the other rights set out in the Convention and other national laws.

45. The Trafficking in Persons Act takes up the principle of protection, stipulating that “it is imperative to protect the life, physical integrity, freedom and safety of trafficking victims, witnesses and dependants of, or persons connected with, victims, who have been threatened prior to, during or following proceedings, without the victim being obliged to cooperate with the investigation in order to receive protection. Where the victims are minors, their best interests and all their fundamental rights as set out in national and international law shall be taken into account”.

46. The purpose of the Optional Protocol is to prevent the sale of children, child prostitution and child pornography, punish perpetrators and protect the life, health, development and survival of children and adolescents. These goals are covered in the Constitution, the Code on Children and Adolescents and the Trafficking in Persons Act, giving the Optional Protocol further legitimacy, lawfulness and relevance in national law.

### **4. Respect for the views of the child (art. 12)**

47. Under article 72 of the Constitution, “opinions may be freely expressed and disseminated by any means, without prior censorship”.

48. Article 11 of the Code on Children and Adolescents explicitly sets out this right, stating that children and adolescents are entitled to “express their opinions”, and refers repeatedly to the importance of taking account of minors’ views about matters of concern to them and about decisions that may be made affecting them.

49. Title I, section three, chapter III, of the Code is devoted to the right to dignity, liberty and freedom of opinion. Article 28, paragraph (c), guarantees children and adolescents “the freedom to express their opinions and to have their views considered in a context of respect and tolerance”.

50. The Trafficking in Persons Act addresses the principle of participation and information, stating that “the views and specific needs of victims shall be considered in any decision-making regarding their interests. In the case of children and adolescents, the right to express themselves shall be guaranteed at every stage of proceedings, bearing in mind their best interests at all times”.

51. The preceding paragraphs describe the amendments that the Government has made to bring laws into line with the requirement under the Optional Protocol to respect children’s and adolescents’ views, a principle that is also covered in the Convention.

## **E. Main obstacles, threats and challenges to the implementation of the Optional Protocol**

52. In recent years, the Government, through the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons, has contended that a specific law against trafficking in persons is necessary to complement the amendments to the Criminal Code of 2005 and facilitate the punishment of those who commit the various forms of trafficking covered in the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Accordingly, it drafted a bill which, in addition to modernizing the definition of trafficking in the Criminal Code, also set forth institutional jurisdiction and responsibility for victim assistance and issues relating to resource allocation. The bill was adopted by Congress on 25 April 2012.

53. The Government acknowledges that, at the time of writing, despite having been submitted to Congress, the adoption bill has yet to be discussed and regulations in this domain therefore remain incomplete. The adoption process is currently governed by an administrative regulation of the Honduran Institute for Children and the Family.

54. According to the members of the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons, some of the country’s main challenges in the areas covered by the Optional Protocol are:

- (a) Strengthening the system for assessing and monitoring the sale of children, child prostitution and child pornography;
- (b) Devising a strategy to improve the investigation of offences relating to commercial sexual exploitation on the Internet;
- (c) Revising the content of the national curriculum with regard to the sale of children, child prostitution and child pornography;
- (d) Setting up databases on the sale of children, child prostitution and child pornography at State institutions, in particular the judiciary, the Public Prosecution Service, the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons, the Directorate-General for Migration and Foreign Nationals and the Ministry of Security;
- (e) Tackling the issue in the media from a human rights perspective;

- (f) Encouraging the population to report cases and combating public indifference towards the issue;
- (g) Linking corporate social responsibility with the sale of children, child prostitution and child pornography;
- (h) Ensuring additional financial resources for institutions involved in efforts to respect, protect, defend and guarantee the rights of children and adolescents;
- (i) Increasing the human resources of institutions working to protect and defend children's rights;
- (j) Building capacity for conducting social research on the topic;
- (k) Devising prevention strategies that involve participation by children;
- (l) Improving international judicial cooperation, given the transnational nature of most cases;
- (m) Harmonizing laws on commercial sexual exploitation and trafficking in persons at the regional level; and
- (n) Addressing the lack of standardized indicators on the enjoyment of children's rights.

## **F. Vulnerable groups and street children**

55. Various factors conspire to make children and teenagers more susceptible to commercial sexual exploitation. Examples include family breakdown, social exclusion, certain addictions — such as drug addiction, alcoholism and drug dependency — the objectification of children and teenagers and the limited opportunities available for them to express their sexual identity.

56. These causes of vulnerability adversely affect the fundamental human rights of children and adolescents and have had a particularly detrimental effect on a specific section of the young population: street children. A census of street children, undertaken between June and July 2003, found that 302 children and teenagers were living on the streets of Tegucigalpa and Comayagüela.

57. Of the street children counted in the census, 242, or 80 per cent, were male; 60, or 20 per cent, were female. With four times as many boys as girls, male children were clearly in the majority, but both sexes represent a section of the population that is at particular risk of commercial sexual exploitation and trafficking.

## **III. Institutional framework for the implementation and coordination of the Optional Protocol**

### **A. Institutions with a specific mandate**

#### **1. Honduran Institute for Children and the Family**

58. The Honduran Institute for Children and the Family was established, for an indefinite period of time, as an autonomous social development agency with legal status and its own budget. Its overriding objective is the protection of children and the full integration of the family, in accordance with the provisions of the Constitution of the Republic, the Code on Children and Adolescents, the Family Code, the Convention on the

Rights of the Child and other related conventions that the State of Honduras has signed or may sign.

59. The Institute is the principal technical authority responsible for coordinating with the private and public sectors the promotion, implementation and oversight of all general prevention and protection policies that relate to children.

60. However, the Institute has experienced numerous difficulties in carrying out its mandated function to protect children, which have led to repeated internal crises. The most recent of these was in 2011, when it emerged that 93 per cent of the agency's budget was being used to pay staff wages and salaries. In addition, although it was stated in the Institute's charter that it should continue the programmes carried out by the former National Social Welfare Board, it was accorded very few of the functions required to fulfil the role of lead agency for children's policy, as decreed under the charter.

61. The Institute thus found itself in the midst of a profound budgetary, administrative and operational crisis that required urgent, wholesale reform to ensure that children were properly cared for. The Government consequently adopted Executive Decree No. PCM-063-2011, which ordered immediate and effective government intervention at the Institute, as well as judicious restructuring and consolidation, and a government oversight commission was established for that purpose for a period of six months.

62. At the end of the intervention period the government commission published its findings, which included a comprehensive analysis of the situation and a number of recommendations for reorganizing or restructuring the Honduran Institute for Children and the Family. In line with the Institute's charter, the commission called for the creation of an "organic, functional structure fit for a high-level government body". It also recommended that the Institute's "mandated function as overall programme coordinator should be transferred to other, more appropriate agencies".

63. In conjunction with the COIPRODEN children's rights network and the Office of the Special Prosecutor for Children, and with technical assistance from UNICEF and USAID, the Ministry of Justice and Human Rights has prepared a preliminary draft law focusing on two key issues. First, the creation of the Office of the Children's Advocate, with subsidiary regional units, in order to devolve to municipalities the management and administration of programmes and multidisciplinary care services for children in their own communities. Second, the transfer of the tasks currently assigned to the Honduran Institute for Children and the Family to the corresponding agencies.

64. The transfer of responsibilities will be as follows: the management of community development centres, which hold vocational workshops, will be transferred to the National Institute for Vocational Training; the Centre for Special Research and Rehabilitation and the Centre for Special Training will fall under the Ministry of Education; and child protection centres will be run by the relevant civil society organizations. The specialized care, rehabilitation and social reintegration services provided by detention centres for children who break the law will become the responsibility of the new Office of the Children's Advocate. Further details on this will be provided in chapter VI on protection, comprehensive care, recovery and reintegration.

## **2. Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons**

65. The Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons was set up by Congress in 2002, at the request of civil society organizations, through the Commission for Children and the Family. The Commission then started working with government agencies, civil society organizations and international

cooperation, until, in March 2004, its sustained and committed work was formally recognized when its members, representing 52 organizations, were sworn in by Congress.

66. The Commission was set up to tackle the commercial sexual exploitation of Honduran children and adolescents. It is responsible for directing, planning and monitoring, and providing technical and financial support for, the implementation of legal and administrative measures to combat commercial sexual exploitation and trafficking.

67. Subsequent to the Trafficking in Persons Act becoming law, it was decided that the Commission would become a decentralized body of the Ministry of Justice and Human Rights, with functional, technical and financial autonomy. Its objective would be to promote, formulate, monitor and evaluate measures taken to prevent and eliminate commercial sexual exploitation and trafficking by managing and implementing targeted policies.

### **3. Office of the Special Prosecutor for Children**

68. The Public Prosecution Service, through the Office of the Special Prosecutor for Children, is responsible for preparing and initiating criminal prosecutions in cases involving children. It carries out continuous, systematic and coordinated activities in conjunction with a range of national institutions, including the police and the Honduran Institute for Children and the Family, in order to eradicate commercial sexual exploitation, punish perpetrators, rescue victims and ensure their protection, rehabilitation and reintegration into society.

69. The Office of the Special Prosecutor for Children set up a unit in 2004 to deal with all complaints relating to commercial sexual exploitation. The unit uses experienced research analysts and various specialized techniques, such as police surveillance and undercover operations, to investigate the most serious cases, with a view to filing the appropriate criminal charges with the courts in those cases.

### **4. The national police force**

70. Four departments of the national police force are working to build capacity in the areas of prevention and control, investigation and training:

- Prevention and control: the Division against the Abuse, Trafficking and Commercial Sexual Exploitation of Children and Adolescents (DATESI) and the Tourist Police Unit, which report to the Directorate-General for Crime Prevention;
- Investigation: the Human Trafficking Unit, which reports to the Directorate-General of Special Investigation Services, and the Special Crimes Unit, which reports to the Directorate-General of Criminal Investigations;
- Training: the Directorate-General of Police Training, through its pre- and post-diploma level courses.

## **B. Other institutions involved**

### **1. Ministry of Justice and Human Rights**

71. The Ministry of Justice and Human Rights was recently created pursuant to Legislative Decree No. 177-2010 of 30 September 2010 and officially took up its duties in January 2011. Its mandate is to develop, coordinate, promote, harmonize and implement human rights public policy and the national human rights action plan, with assistance from civil society organizations; undertake the process of reviewing, updating and harmonizing national legislation; promote legal safeguards and foster greater knowledge of the law

among the general public; and develop capacity-building for centralized and decentralized government agencies to enable them to fulfil the human rights obligations falling within their remit.

72. The Ministry of Justice and Human Rights is currently drafting the country's first human rights policy and a national human rights action plan. Where these instruments relate to children, the Ministry aims to formalize the work of public institutions that deal with such issues as education, health and child labour. The goal is to construct a national strategy that prioritizes the best interests of children and adolescents in the activities of those institutions. The Ministry will also take on the task of reviewing existing policies and ensuring that they conform to the country's commitments under the Convention on the Rights of the Child and its Optional Protocols. To ensure that institutions take adequate steps to comply with the human rights public policy and the national action plan, both of these instruments will be accorded the status of law.

## **2. Ministry of the Interior and Population**

73. The Covenant on Children, although separate from the agencies with specific legal responsibility in this area, aims to develop an extensive national initiative to encourage cooperation between the Government, the private sector, churches and grass-roots community organizations. These institutions are all committed to improving the living conditions of Honduran children and adolescents, in line with the Convention on the Rights of the Child, and to ensure their survival, development, protection and participation. One of the project's principal tasks is to identify and define the strategies and basic criteria for the development and execution of municipal plans for action and coordination at the local level.

74. In order to promote and reinforce the work of municipal children's advocates, a network of such advocates works to raise awareness among mayors and encourage them to appoint local ombudsmen in their communities. The network also provides training and monitors, follows up and evaluates the performance of advocates across the country.

75. The Directorate-General for Migration and Foreign Nationals reports to the Ministry of the Interior and Population and is tasked with ensuring that the immigration system functions effectively. It regulates the entry and exit of Honduran and foreign nationals, and the period of time that foreign visitors remain in the country, and monitors areas where commercial sexual exploitation may develop.

76. Officials follow the procedures outlined in a manual on how to prevent trafficking in children and adolescents for purposes of sexual exploitation.

77. By providing the necessary legal framework, these procedures are intended to help officials to identify and provide initial support to victims of trafficking, particularly those under 18 years of age. They also aim to provide guidance to the relevant authorities on how to conduct and follow up cases, once identified.

78. Immigration officials and representatives should:

- Check whether there are any migration alerts;
- Deny entry immediately to any persons engaging in sexual exploitation; and
- Alert other national and international authorities.

79. When repatriating minors who have been victims of trafficking, the Directorate-General for Migration and Foreign Nationals and other related agencies should always act in the best interests of the child. It is essential to inform their parents or relatives of the issue, but the child's statement must be given voluntarily and the interview must be conducted in a safe environment.

### **3. Ministry of Labour and Social Security**

80. In relation to the issues addressed by the Optional Protocol, the Ministry of Labour and Social Security has, under Executive Decree PCM-011-2011, adopted a national policy on child labour and a road map for the prevention and eradication of the worst forms of child labour, as published in the Official Gazette on 22 March 2011.

### **4. Ministry of Social Development**

81. The Ministry's social protection policy includes temporary measures aimed at providing comprehensive services as a priority to those sectors of the population identified as being vulnerable, marginalized or socially at risk.

82. In implementing the social protection policy, a systematic, individualized approach is taken. It incorporates aspects of human development and focuses on the rights of people living in particularly socially disadvantaged conditions. The objective is the promotion of an individual's full capacities as an active participant in his or her own personal development. Children and adolescent victims of violence, trafficking and sexual and economic exploitation are also active participants in this process.

### **5. Ministry of Education**

83. The Ministry of Education has developed manuals on sexual orientation which are used by its Special Programmes Unit when it gives seminars, talks and training to teachers and parents. The Education and Careers Guidance Unit is tasked with developing and proposing education strategies, standards and procedures. Management and coordination models and methodologies will be applied in the pursuit of the goal of an education system that encourages children and adolescents to reach their full potential at school, acquire the knowledge and resilience to cope with social risk and use their talents and abilities to create life plans that fit in with their personal, family and social realities.

### **6. National Institute for Women (INAM)**

84. The National Institute for Women was established by Legislative Decree No. 232-98, which was published in Official Gazette No. 28,798 on 11 February 1999. Its purpose is to promote women's full participation in the sustainable development process and gender equality in all social, economic, political and cultural affairs.

85. The Institute has a violence prevention unit which runs seminars on human trafficking and related issues throughout the country. The unit also provides technical advice on the sexual exploitation of children to students of the national police university, where they conduct detailed analyses of cases of commercial sexual exploitation and trafficking of children.

### **7. Municipal councils and mayor's offices**

86. Municipal councils have local children's advocates who work to prevent commercial sexual exploitation and trafficking and provide assistance to victims. These advocates are the local representatives of a system to protect the rights of children. Local advocates must demonstrate community leadership, as this enables them to encourage, promote and lead initiatives to protect, promote and defend the rights of children.

### **8. Ministry of Foreign Affairs**

87. The Ministry of Foreign Affairs is responsible for the development, coordination, execution and evaluation of the Government's foreign policy. It also takes the lead in the negotiation and signing of international, bilateral and multilateral treaties and conventions

with international organizations, except where the authority to do so belongs to other national bodies. The Ministry has actively participated in the process of signing international conventions to combat the sale of children, child prostitution, child pornography and child sex tourism.

88. It also provides its consular staff, whether posted at home or overseas, with basic training and guidelines on the detection and identification of victims of human trafficking and the support that those victims will need.

#### **9. Technical Secretariat of Foreign Cooperation and Planning (SEPLAN)**

89. The Technical Secretariat is tasked with planning and implementing initiatives to meet the goals and objectives set by the various agencies. It is also responsible for improving the Government's administrative system and reinforcing its capacity to implement the guidelines laid down by the National Plan and Vision for the Country document. The first guideline, on sustainable development of the population, expressly states that Honduras must develop the capabilities and potential of its young people to enable them to overcome the major development challenges posed by globalization.

### **IV. Prevention (arts. 1, 2, 4, para. 2, and 6, para. 2)**

90. Since 2002, when Honduras signed the Optional Protocol, various measures, programmes and plans designed to prevent the sale of children, child prostitution and child pornography have been implemented.

#### **Measures adopted to prevent sexual exploitation**

##### **1. Protection of rights**

##### **(a) National Action Plan to Combat Sexual Exploitation 2006–2011**

91. The Action Plan was drawn up by the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons and is made up of five components contained in the Agenda for Action of the First World Congress Against Commercial Sexual Exploitation of Children, held in Stockholm in 1996. Under the Plan, all the bodies and organizations making up the Commission undertake to ensure that their operational plans address the issue of the commercial sexual exploitation of children and adolescents.

##### *Strategic goal*

- To combat the sexual exploitation of children and adolescents in Honduras.

##### *Specific goals*

- To improve legal protection and comprehensive care for children and adolescents affected by commercial sexual exploitation, with a focus on the restoration of their rights;
- To address risk factors at the local and national levels;
- To work towards the elimination of commercial sexual exploitation in Honduras;
- To encourage children and adolescents to become actively involved in the measures set out in the Plan;



- To help implement regional initiatives designed to prevent and eliminate commercial sexual exploitation;
- Activities aimed at achieving these goals include the following:
  - Action on halting the commercial sexual exploitation of children and adolescents in Honduras;
  - The adoption of any measures necessary for the effective implementation and delivery of the Plan;
  - The creation of strategic alliances with key stakeholders at the local, municipal, national and regional levels to promote the implementation of the plan;
  - Efforts to promote cooperation regarding the proposed measures contained in each component of the Plan;
  - The sharing of experiences regarding the implementation of action plans in other countries and regions;
  - Work to ensure that children and adolescents play a significant and active role both in the Plan (including them in the relevant decision-making, monitoring and assessment processes) and in any related activities affecting policies and practices.

**(b) Principal measures taken to align national legislation with international standards**

92. Reform of the Criminal Code. Pursuant to Legislative Decree No. 234-2005, published in Official Gazette No. 30,920 of 4 February 2006, harmonizing Honduran criminal law, Congress updated the definition of the offence of child abuse, extending the Criminal Code to address commercial sexual exploitation offences, including procuring, trafficking in persons for the purposes of commercial sexual exploitation, the involvement and use of persons under the age of 18 years in public and private performances of a sexual nature, paid sexual relations with persons under the age of 18 years, the production, distribution and possession of child pornography and sex tourism.

93. Trafficking in Persons Act. Notwithstanding the fact that the criminal offence of trafficking in persons was introduced as a part of the criminal reforms contained in Legislative Decree No. 134-2005, the public sector and civil society organizations were quick to point out that the new regulation was not in line with the various international standards on trafficking in persons established under international law and called for a legislative framework that took into account the relevant international commitments by Honduras.

94. In the light of the above, pursuant to Legislative Decree No. 59-2012 of 25 April 2012, Congress adopted the Trafficking in Persons Act, which lays the basis for policies designed to prevent the offence of trafficking in persons and provides institutions with the powers and resources necessary to combat that offence and to run victim care and rehabilitation programmes and projects.

95. Under the Act, which governs the organization and powers of the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons, the Commission became a decentralized unit of the Ministry of Justice and Human Rights tasked with assisting in the implementation of the measures in the Act to prevent trafficking and punish perpetrators.

(c) **Children's Rights Observatory**

96. The Children's Rights Observatory is a forum for dialogue and analysis, set up in April 2008 with the aim of forming a clear picture of the true situation and providing a space in which individuals can interact, in a constructive and informed manner, to take evidence-based decisions on how to promote the enforcement of the fundamental rights and freedoms of children and on related resource allocation and prioritization.

97. The Observatory is a part of the Honduran Institute for Children and the Family and helps with the implementation of the Institute's child and family protection policies.

98. Technical and financial assistance for the establishment of the Observatory was provided by UNICEF through its social investment, public policies and alliances programme.

99. The Observatory was set up specifically to ensure compliance with the relevant international treaties signed by the State of Honduras and to facilitate the development of public policies. However, the State recognizes that more must be done in terms of ensuring that the rights of Honduran children are respected, fulfilling the commitments made in international forums (the Convention on the Rights of the Child and other legal instruments), following up recommendations made by the Committee on the Rights of the Child, addressing the lack of information on children's issues and strengthening follow-up, analysis and assessment mechanisms to assist decision-making.

100. To date, the main achievements of the Observatory have been the preparation and publication of the following documents: *Cartilla de indicadores sociales de la niñez en Honduras* (Manual of social indicators of children in Honduras); *Honduras: Gasto social en infancia 2006–2008* (Honduras: social expenditure on children 2006–2008); *Honduras: Índices de Derechos de la Niñez* (Honduras: indices of children's rights); *Manual de indicadores sobre niñez* (Handbook of indicators on children); a pamphlet on the Children's Rights Observatory; and a pamphlet on indicators of children's rights in early childhood.

101. In addition to the official launching of the Children's Rights Observatory, work has also been carried out to set up the Observatory's website, build links between the Observatory and other agencies, provide technical support for the preparation of a report on the current situation of children in Honduras, in cooperation with UNICEF, contribute to the compilation of information to be used in a report on the current situation of indigenous children and tabulate data and prepare tables and graphics containing information drawn from a survey of NGOs.

102. The Children's Rights Observatory is currently engaged in analysing the results of the 2010 survey of NGOs, updating information on social expenditure on children for the period 2006–2008, updating the Observatory's website, designing the Communication and Life (COMVIDA) project website, working on a proposed logo for the Honduran Institute for Children and the Family, digitizing images and archives and participating in inter-agency meetings, involving such bodies as the System of Social Indicators for Children, Adolescents and Women and the Inter-Agency Committee of the Regional System of Standardized Social Cohesion and Public Safety Indicators.

(d) **Code of Conduct for the Protection of Children and Adolescents from Commercial Sexual Exploitation in Tourism**

103. The Code of Conduct project is designed to encourage the private tourism sector, tour operators and travel agents to help prevent and combat the sexual exploitation of children and adolescents in the sphere of travel and tourism.

104. The Code of Conduct, which is aimed at the tourist sector, was drafted in September 2005, drawing on an international initiative launched by the United Nations World Tourism

Organization (UNWTO) and End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) International. It focuses on the rights of children and adolescents, as set forth in the Convention on the Rights of the Child and its Optional Protocol, and on responsible and sustainable tourism, as defined in articles 1, 2 and 10 of the UNWTO Global Code of Ethics for Tourism.

105. The aim of this initiative is to encourage the tourism sector to report and prosecute persons using tourist activity, premises and services to encourage, facilitate or allow the commercial sexual exploitation of children and adolescents. The initiative seeks to discourage and punish such conduct in the sphere of travel and tourism through the application of the following measures:

- (a) The establishment of a corporate ethics policy against the exploitation of children and adolescents in tourism;
- (b) Staff training;
- (c) Information campaigns targeting travellers;
- (d) The inclusion of specific clauses in contracts with suppliers;
- (e) Contacting “key persons” at destinations; and
- (f) Annual reporting.

106. These measures constitute good practice in the countries involved in the initiative and this approach has been widely adopted within the Honduran tourism sector, covering 288 hotels in 35 towns and cities.

**(e) The Road Map for the Prevention and Eradication of the Worst Forms of Child Labour**

107. The Road Map is the national strategic framework for the achievement of the goals set forth in Decent work in the Americas: An agenda for the Hemisphere, adopted at the Sixteenth American Regional Meeting of ILO in Brasilia in 2006. Under that agenda, the Road Map provides the basis for strategic programming, linking the various public policies and related actions that have a direct or indirect impact on the prevention and eradication of child labour and the worst forms of child labour and on the protection of adolescent workers.

108. The Road Map was adopted as the national policy on child labour under Executive Decree No. PCM-011-2011, published in the Official Gazette on 22 March 2011. The Dominican Republic and seven Central American countries, including Honduras, are taking part in the initiative, which involves measures to promote compliance with fundamental principles and rights at work and the gradual elimination of child labour.

**(f) Action Plan for the Gradual Elimination of Child Labour in Honduras 2006–2015**

109. The aim of the Plan is essentially to help bring about the gradual elimination of child labour. One specific goal of the Plan is the implementation of direct action programmes designed to prevent the involvement, or the risk of involvement, of children and adolescents in hazardous child labour and worse forms of economic exploitation, including commercial sexual exploitation, and to rescue those affected. The following measures will be taken to that end:

- (a) Direction action programmes implementing priorities decided on at the local level in accordance with the list of hazardous forms of child labour; and

(b) Financial transfers predicated on requirements for health, education, nutrition and other public social assistance services, including guarantees of continuing education and encouragement to study.

110. The Second Action Plan was launched in 2008 and included the adoption, under Executive Decision No. STSS-097-2008, of the list of hazardous child labour. The Plan defines economic exploitation as an activity that is prohibited for persons under the age of 18 years owing to its nature or the conditions under which it is carried out.

111. The National Commission for the Gradual Elimination of Child Labour is responsible for the implementation of the Plan and for overseeing national policies on child labour, of which commercial sexual exploitation is one of the worst forms. The Commission is a multisectoral entity made up of international bodies, national institutions, NGOs, workers' federations and social organizations, such as the Ministries of Labour and Social Security, Education, Health, the Interior and Population, Justice and Human Rights, Industry and Commerce and Agriculture and Livestock, the Supreme Court of Justice, the Public Prosecution Service, the Honduran Institute for Children and the Family, the Honduran Social Security Institute, the National Foundation for Children, the Family Allowance Programme, trade union organizations, the Honduran Private Enterprise Council, the Association of Honduran Municipalities, the National Association of Small and Medium-sized Industries, child and adolescent workers, the Honduran Committee for the Defence of Human Rights and the COIPRODEN children's rights network. These groups meet on a weekly basis to coordinate work on improving the implementation of the Plan and to support public policies on the eradication of child labour.

**(g) Social Intervention Programme/Subprogramme for the Restoration and Protection of Rights**

112. The Social Intervention Programme is designed to provide comprehensive protection for children and adolescents at social risk or with disabilities. The Programme uses a comprehensive care model to encourage families to change their behaviour, thus enabling them to play their proper role.

113. The Subprogramme for the Restoration and Protection of Rights was set up in 2007 as a part of the Social Intervention Programme, in order to address the problems facing street children. One of the aims of the Subprogramme is to ensure the exercise of street children's human rights, which often involves coordinating with agencies and NGOs working in the same field, participating in their work and providing advice.

114. The Subprogramme was launched with the help of a team of educators, a number of NGOs (including Casa ASTI, Médecins sans Frontières, Casa Alianza, Proyecto Manuelito and Proyecto Compartir) and municipal authorities, the aim being to develop an appropriate methodology for working with street children, including community outreach and suitably qualified educators.

115. A handbook containing guidelines on dealing with children and adolescents — how to behave, what to do and what not to do — was prepared for educators in their role as agents for change. The handbook has been distributed to a number of NGOs, the six regional offices of the Honduran Institute for Children and the Family and local government authorities.

116. Work has also been carried out with street children in various urban centres across the country. The street children of the Central District municipality (Comayagüela, El Obelisco, Mercados, El Estadio, La Isla, Calle Real and others) have received the most attention, thanks to funding provided by Children International for a project based on the Education for All Programme that is offered to children and adolescents in informal and

formal education. The project was implemented by Casa ASTI, an NGO with extensive experience of dealing with the issue of street children in Honduras.

**(h) Creation of police units specializing in the prevention and investigation of offences involving the commercial sexual exploitation of children and adolescents**

*Specialized police units*

117. The Honduran Ministry of Security has set up units specializing in the prevention and investigation of commercial sexual exploitation and trafficking, as described in paragraph 70, and the provision of training in combating them.

118. In the field of prevention, the national police force has included the subject of commercial sexual exploitation and trafficking in the curricula of the Police Training Centre, the National Police Academy and the Institute of Higher Police Studies, thus ensuring that graduates from those educational institutions acquire specialized knowledge of the issues of prevention and the protection of victims of commercial sexual exploitation and trafficking.

119. The Division against the Abuse, Trafficking and Commercial Sexual Exploitation of Children and Adolescents, created in 2003 as a part of the Preventive Police Force, has set out specific police procedures for dealing with cases of abuse and commercial sexual exploitation and trafficking. The Division has its own office and enjoys widespread respect among the rest of the police force for the role played by its members in protecting children's rights.

120. The Office of the Special Prosecutor for Children attached to the Public Prosecution Service has assigned research analysts to focus exclusively on investigating cases of commercial sexual exploitation, and sexual abuse in general (see para. 69).

**(i) The web page: [www.hondureñosdesaparecidos.org](http://www.hondureñosdesaparecidos.org)**

121. The web page [www.hondureñosdesaparecidos.org](http://www.hondureñosdesaparecidos.org) is run by the International Criminal Police Organization (INTERPOL) and is a part of a Latin American network through which missing, unidentified Hondurans or foreign nationals, both migrants and non-migrants, particularly victims of trafficking, and especially children and adolescents, may be located, identified and reunited with their families.

**(j) Central American regional accord**

122. On 8 July 2006, under the Central America-4 Border Control Agreement, an accord was signed on the implementation of measures to protect children and adolescents moving between countries, adopting a law on passports for children and adolescents and on the requirement of duly authenticated parental consent, renewed whenever a minor seeks to leave Honduras.

**(k) Protocols observed by officials of the Directorate-General for Migration and Foreign Nationals**

123. The Directorate-General for Migration and Foreign Nationals is responsible for ensuring that persons under the age of 21 years leaving or entering the national territory have both the necessary travel document and, if travelling with a person other than their parents, parental consent.

124. Migration officials have a duty to check whether grounds exist for refusing leave to quit the national territory, such as alerts put out by migration authorities and irregular travel documents or travel consent forms. In such cases, entry or exit is refused and immediate

protection measures are taken in respect of any child or adolescent requiring assistance on humanitarian grounds and the competent authorities are notified of the action taken.

125. The Directorate-General for Migration and Foreign Nationals has taken a number of measures designed directly to combat sex tourism, including a ban on the entry into Honduras of sex traffickers and exploiters previously convicted of sex tourism-related offences, in line with article 81, paragraph 7, of the Immigration and Foreign Nationals Act. Likewise, agents and officials of the Directorate have a duty to take the following measures:

- (1) Check that no migration alerts have been put out;
- (2) Immediately refuse entry to persons engaged in sexual exploitation; and
- (3) Alert all other relevant national and international authorities.

## **2. Awareness-raising, training and communication**

### **(a) The media**

126. Honduran legislation contains a number of measures designed to prevent commercial sexual exploitation and trafficking in persons, including those on awareness-raising and communication set forth in article 94 of the Code on Children and Adolescents:

“The media shall, on a permanent basis, broadcast cultural, artistic, informative and educational programmes designed to inculcate family, social and civic values in children or to prevent threats to or violations of their rights. All programmes shall be given a rating by the media, taking into account the age of the target audience, in order to allow parents or legal guardians to decide whether those programmes are appropriate for the children in their charge.”

### **(b) The Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons**

127. During the period under consideration in this report, the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons carried out a number of activities to publicize the Protocol, including training sessions for officials of the three branches of government, teaching staff, members of the armed forces, the police and others. The aim was to publicize measures designed to prevent and combat the offence of commercial sexual exploitation and to rehabilitate victims.

128. The Congressional Committee on Children and Adolescents, the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons and UNICEF work together closely and have launched a communication strategy to mobilize public opinion against the ill-treatment, abuse, sexual exploitation and trafficking of children and adolescents. As part of the follow-up to this strategy, a television programme entitled “*Rompiendo el silencio*” (Breaking the Silence) was produced in an effort to raise awareness. Government officials, NGO representatives and other experts took part in the programme, which focuses on comprehensive child protection.

129. In 2010, the government authorities launched the “Breaking the Silence” complaints hotline, giving it the number 111. The Office of the First Lady of Honduras, the Empresa Hondureña de Telecomunicaciones (Honduran Telecommunications Company), the Honduran Institute for Children and the Family and the Office of the Special Prosecutor for Children joined forces to back the initiative, which aimed to deal with any reports of the abuse or violation of the rights of children and adolescents in Honduras.

130. Support for a number of other efforts has been provided by the International Programme on the Elimination of Child Labour of the International Labour Organization

(ILO-IPEC), Save the Children, the International Organization for Migration (IOM) and ECPAT International. As a part of those efforts, adults, children and adolescents have been provided with information relating to international and national legislation on commercial sexual exploitation.

131. At the national level, the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons has provided training to a number of groups, including judicial officials, members of the police force, NGO workers and migration and border officials.

132. The Commission also received printed material produced by UNICEF and other international bodies for the Latin American region on the issues of prevention and the commercial sexual exploitation of children and adolescents. That material has been distributed as a part of the Commission's training courses and other activities.

133. Article 23 of the recently adopted Trafficking in Persons Act states that, under the Expression of Thought Act, the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons shall, free of charge, organize media forums and weekly awareness-raising campaigns aimed at promoting education and guidance initiatives combating all forms of trafficking in persons, while also taking into account the need to pay due attention to other public health campaigns.

**(c) Additional training and awareness-raising work carried out by the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons**

- (i) Discussions in the media on the commercial sexual exploitation of children and adolescents, trafficking in persons and irregular migration;
- (ii) National campaigns to prevent the commercial sexual exploitation of children and adolescents;
- (iii) The design, preparation, approval and distribution of publicity material, such as posters, comic strips and leaflets, targeting various audiences;
- (iv) National mass media forums; and
- (v) Regional screenings of the following documentaries funded by ILO-IPEC:
  - "Asalto al Sueño" (Assaulted dream);
  - "Ojalá fuera ficción" (If only it were fiction);
  - "La sombra de la región" (The shadow of the region);
  - "Saber que se puede" (Know that you can);
  - "Es un delito" (It's a crime).

**(d) Honduran Institute for Children and the Family**

134. In implementation of its protection programmes, the communications department of the Honduran Institute for Children and the Family holds discussions and seminars and designs awareness-raising materials (booklets, posters, leaflets, etc.) on both the contents of the Code on Children and Adolescents and the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography.

**(e) Honduran Tourist Board**

135. UNICEF and the Honduran Tourist Board, a body made up of a range of enterprises from the tourism and hotel sectors, have publicized the legal consequences of the commercial sexual exploitation of children and adolescents in all the country's hotel chains.

136. The Tourist Board has launched an awareness-raising, education and training programme targeting entrepreneurs and workers in the travel and tourism sector, with a view to helping to prevent the commercial sexual exploitation of children and adolescents within the industry.

137. Observing good practice, the Ministry of Justice and Human Rights holds all its events in Tourist Board-certified hotels and has called on all other public bodies to continue to support enterprises committed to combating the commercial sexual exploitation of children and adolescents and trafficking in persons.

**(f) Ministry of Education**

138. The Special Programmes Unit of the Ministry of Education prepared guidelines on sexual orientation, which it issued to teachers and parents during seminars, discussions and training courses.

139. The Education and Careers Guidance Unit is responsible for drawing up and proposing strategies, regulations and procedures for the implementation of management and coordination methodologies and models regarding the transfer of educational services designed to promote the comprehensive development of children and adolescents cared for in Honduran educational centres. The aim of the Unit is to ensure that children and adolescents learn through their own efforts how to deal with social risks and utilize their potential when making plans for the future, in line with their personal, family and social situations.

**(g) National Autonomous University of Honduras**

140. The Directorate for University-Society Links was the driving force behind a cooperation agreement between the National Autonomous University of Honduras, Save the Children and Casa Alianza, under which a Diploma in Violence and Trafficking in Persons with a Focus on Children and Adolescents was introduced. The first group of students, 35 in all, began studying for the Diploma on 7 October 2010. In 2011, a second group, made up of 39 students, embarked upon the 150-hour course, which was delivered over a period of six or seven months.

141. Both the 2010 and 2011 groups of students were drawn from public and private bodies involved in efforts to tackle issues affecting children, in particular, the Public Prosecution Service, the police, the armed forces and NGOs (SOS Children's Villages International, Save the Children, the "Share" project and Médecins sans frontières). A number of places on the course — 15 in all — were reserved for final year students studying psychology, education or social work.

**(h) Training courses for judicial officials**

142. The Supreme Court of Justice and the Public Prosecution Service have given training to judges, defence lawyers, prosecutors and other judicial officials on the effects of offences involving the commercial sexual exploitation of children and adolescents and issued guidance on the criminal prosecution and punishment of both the perpetrators and the instigators of such offences. Work has also been carried out to raise awareness among such officials in order to ensure that the children and adolescents concerned do not become victims for a second time.

143. The national police force and UNICEF have prepared a training manual on various issues, including children's rights, self-esteem, abuse, commercial sexual exploitation and trafficking, designed to assist police officers in dealing properly with such issues and in working to raise public awareness.



144. In 2009, Save the Children and the Office of the Special Prosecutor for Children held training and conceptualization workshops on trafficking in persons for prosecutors, psychologists, investigators and social workers. The Division against the Abuse, Trafficking and Commercial Sexual Exploitation of Children and Adolescents of the national police force also held a number of training workshops for officials of the various national police departments.

## **V. Prohibition of the sale of children, child pornography and child prostitution**

### **A. Legal framework**

145. The current legal framework in Honduras governing acts prohibited by the Protocol and issues related to the punishment of such acts is regulated by:

- (a) Constitution;
- (b) Convention on the Rights of the Child;
- (c) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
- (d) Trafficking in Persons Act;
- (e) Code on Children and Adolescents;
- (f) Criminal Code;
- (g) Code of Criminal Procedure; and
- (h) Witness Protection Act.

### **B. Evolution of national criminal law**

146. The Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons put forward the draft amendment to the Criminal Code to classify the commercial sexual exploitation and trafficking of children and adolescents as specific criminal offences.

147. As a result, in 2005, pursuant to Decree No. 234-2005, published in the Official Gazette on 4 February 2006, Congress adopted the reform of Title II, Book Two, Special section of the Code, which was given the new title “Offences against the freedom and physical, psychological and sexual integrity of persons”, formerly “Offences against sexual freedom and decency”, and to which a new chapter entitled “Commercial sexual exploitation offences” was added.

148. This amendment aims to ensure that criminal justice is served in such cases, while promoting comprehensive protection for victims, as it deals with offences affecting the victims’ private sphere. From this perspective, it provides a framework for protection from all kinds of physical, psychological, mental or moral abuse.

149. This amendment expressly provides that, where the victim is under 18 years of age, this shall be considered an aggravating circumstance. It covers the following criminal offences: rape, immoral conduct, statutory rape, incest, the abduction or retention of children and adolescents, procuring, human trafficking, commercial sexual exploitation, pornography and sex tourism, which are described below:

**1. Rape**

150. Article 140 of the Criminal Code defines the offence of rape as engaging in sexual intercourse with a person of either sex by inflicting violence or by threatening with grave and imminent danger the victim, his or her spouse or partner or one of his or her relatives up to the fourth degree of consanguinity or the second degree of affinity.

151. For the purposes of this article, sexual intercourse shall be understood to mean vaginal, anal or oral penetration. Any person who commits this offence shall receive a penalty of 10 to 15 years' imprisonment.

152. Sexual intercourse with a person of either sex under the following circumstances, without resort to violence or threats, constitutes a special case of rape and shall be punishable by a term of 15 to 20 years' imprisonment:

- (a) Where the victim is under 14 years of age;
- (b) Where the victim is unconscious or not in control of his or her own free will or is unable to resist for any reason;
- (c) Where the perpetrator, in order to commit the rape, intentionally diminishes or eradicates the victim's free will using psychotropic substances or narcotics, including alcohol, or when he commits the rape upon finding the victim in such a state;
- (d) Where the perpetrator has guardianship or custody of the victim and abuses his position of authority to gain access to the victim;
- (e) Where the perpetrator commits the rape knowing that he carries the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) or an incurable sexually transmitted disease.

153. The same penalty shall apply in cases of rape committed by more than one person or by a repeat offender, or when the victim is pregnant, becomes pregnant as a result of the rape or is over 70 years of age.

**2. Immoral conduct**

154. Article 141 – A person who, by exploiting the conditions or using the means referred to in the preceding article, commits immoral acts other than sexual intercourse against another person or persons shall incur a penalty of 5 to 8 years' imprisonment.

155. The length of the sentence shall be increased by half if the victim is under 14 years of age, even if he or she consents to the act, or if he or she is over 14 years of age but suffers from a mental illness or incomplete or retarded mental development, are unconscious or incapable of exercising free will or are unable to resist for any reason.

156. If the immoral conduct consists of inserting objects or instruments of any kind into the victim's sexual organs or other natural or artificial body orifices that simulate sexual organs, the perpetrator shall incur a penalty of 10 to 15 years' imprisonment.

**3. Statutory rape**

157. Article 142 – A person who commits rape against a person over 14 and under 18 years of age by exploiting the victim's trust or by exploiting his own position or authority shall incur a penalty of 6 to 8 years' imprisonment.

158. A rape committed using deceit shall be punishable by a term of 5 to 7 years' imprisonment.

#### 4. Incest

159. Article 143 – Sexual intercourse with relatives in the ascending or descending line, between siblings, between an adoptive parent and child, or with a stepmother or stepfather in cases where the victim is over 18 years of age constitutes the offence of incest and shall be punishable by a term of 4 to 6 years' imprisonment following prosecution on the basis of a complaint filed by the victim or his or her legal guardian.

160. Where the victim is over 14 and under 18 years of age, the length of the sentence shall be increased by half.

#### 5. Abduction and retention of children

161. Article 144 – A person who with sexual intent and the use of force, intimidation or deceit abducts or retains a person shall incur a penalty of 4 to 6 years' imprisonment.

162. Where the victim is under 18 years of age, the length of the sentence set out in the preceding paragraph shall be increased by half.

#### 6. Procuring

163. Article 148 – A person who promotes, encourages, facilitates, recruits or compels the participation of other persons in commercial sexual exploitation activities commits the offence of procuring and shall incur a penalty of 6 to 10 years' imprisonment and a fine of 100 to 200 times the minimum wage.

164. These penalties shall be increased by half in the following cases:

- (a) Where the victims are under 18 years of age;
- (b) Where the perpetrator exploits his or her own position, job or business;
- (c) Where the perpetrator is in a position of power over the victim, based on trust, kinship or authority;
- (d) Where the victim is subjected to conditions of servitude or other slavery-like practices.

#### 7. Human trafficking

165. Article 149 – A person who facilitates, promotes or carries out the recruitment, retention, transport, transfer, delivery, harbouring or receipt of persons, whether inside or outside the national territory, for purposes of commercial sexual exploitation, shall be guilty of the offence of human trafficking and shall incur a penalty of 8 to 13 years' imprisonment and a fine of 150 to 250 times the minimum monthly wage.

166. This penalty shall be increased by half in the following cases:

- (a) Where the victim is under 18 years of age;
- (b) Where the perpetrator uses force, intimidation, deceit or the promise of work;
- (c) Where the perpetrator supplies the victim with drugs or alcohol;
- (d) Where the perpetrator exploits his own business, position or job;
- (e) Where the perpetrator exploits the trust of persons who hold authority over the victim or makes payments, loans or concessions to obtain their consent.

*Note:* Article 149 was superseded by the recently adopted Trafficking in Persons Act, which is described later in this report.

## 8. Economic exploitation

167. Article 134 of the Code on Children and Adolescents defines economic exploitation and stipulates that perpetrators shall incur a penalty of 3 to 5 years' imprisonment. This applies to:

- (a) A person who makes a child work overtime or night shifts;
- (b) A person who forces a child to work for less than the minimum wage.

## 9. Commercial sexual exploitation

168. Commercial sexual exploitation is a form of economic exploitation that was already classified as an offence punishable by 3 to 5 years' imprisonment under article 144 (c) of the Code on Children and Adolescents, which states that perpetrators of this offence include anyone who promotes, incites or compels a child to engage in illegal activities such as prostitution, pornography, obscenity or immorality. In this regard, commercial sexual exploitation, as regulated in the following articles from the amended Criminal Code, constitutes a special form of economic exploitation.

169. Article 154-A – For such purposes as may be applicable, commercial sexual exploitation shall be understood to mean the use of persons for sexual purposes in activities involving payment or promise of payment to the victim or a third person who enters into a transaction with the victim.

170. Article 149-A – A person who induces or allows persons under the age of 18 to be exposed to the activities carried out in places that promote commercial sexual exploitation shall be punished with 3 to 6 years' imprisonment and a fine of 50 to 100 times the minimum wage.

171. Article 149-B – A person who uses persons under the age of 18 in public or private shows or spectacles of a sexual nature shall be punished with 4 to 8 years' imprisonment and a fine of 100 times the minimum wage.

172. Article 149-C – Sexual intercourse or immoral acts committed with minors aged over 14 and under 18 years in exchange for payments in cash or kind made to the minor or a third person shall be punished with 6 to 10 years' imprisonment.

## 10. Child pornography

173. Prior to the 2005 reform of the Criminal Code, article 95 of the Code on Children and Adolescents established that “the public display of magazines or any other kind of publication that violate the rights of the child is prohibited. Any violation of this provision shall be punished as stipulated in the Criminal Code”. This unspecific criminal provision was given substance by the addition of article 149-D, introduced as an amendment to the Criminal Code, which reads as follows:

174. Article 149-D – A person who by any means, whether directly, mechanically or through digital, electronic or any other media, finances, produces, copies, distributes, imports, exports, offers, sells or disseminates material using a person or the image of a person under the age of 18 in pornographic or erotic acts or activities shall be guilty of the offence of pornography and shall be punished with 10 to 15 years' imprisonment and a fine of 200 to 300 times the minimum wage.

175. Possession of pornographic materials containing images of children or adolescents shall be punished with 4 to 6 years' imprisonment.

## 11. Sex tourism

176. Article 149-E – A person who, in order to attract tourists, promotes or conducts advertising programmes or publicity campaigns of any kind, via any medium, to project the country nationally or internationally as a tourist destination that offers access to sexual activities with persons of either sex shall be punished with 8 to 12 years' imprisonment and a fine of 150 to 250 times the minimum wage.

177. The penalties shall be increased by half:

- (a) Where the victims are persons under the age of 18;
- (b) Where the perpetrator exploits his or her position as a serving official or public authority.

178. Title II, chapter III, article 152, of the Criminal Code, which contains general provisions, states as follows:

Article 152 – All offences covered by this Title perpetrated against a victim under 18 years of age shall be prosecuted by the Public Prosecution Service, either of its own motion or in response to an action by the party concerned.

The offences of rape and commercial sexual exploitation covered in this Title shall be subject to prosecution by the Public Prosecution Service, either of its own motion or in response to an action by the party concerned, even if the victim is over 18 years of age.

The other offences set out in this Title shall be prosecuted in response to an action by the party concerned, where the victim is an adult.

179. Commercial sexual exploitation offences referred to in this section shall be criminally prosecuted by the unit for the processing of complaints related to commercial sexual exploitation and trafficking attached to the Office of the Special Prosecutor for Children of the Public Prosecution Service.

180. This unit was established in 2004 and now handles all complaints of commercial sexual exploitation and trafficking. In 2009, a total of 53 complaints were filed and 26 cases were brought before the courts. Judgements were handed down in 10 of those cases, of which 8 were convictions and 2 were acquittals. In 2010, a total of 58 complaints of such offences were filed, 23 cases were brought before the courts and 7 judgements were handed down, of which 6 were convictions and 1 was an acquittal.

## C. Trafficking in Persons Act

181. The Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons, in coordination with the Ministry of Justice and Human Rights and the Office of the First Lady, prepared the preliminary draft Trafficking in Persons Act, based on the most relevant international standards in this area, as a strategy for legal action and inter-agency coordination in this field. The draft was adopted by Congress under Legislative Decree No. 59-2012 of 25 April 2012.

182. The Act replaces the criminal offence of trafficking introduced in Criminal Reform No. 134-2005, reflecting the different forms of trafficking covered by international law, as follows:

### Human trafficking

Article 52: A person who facilitates, promotes or carries out the recruitment, retention, transport, transfer, delivery, harbouring or receipt of persons, whether

inside or outside the national territory, for the purpose of subjecting them to servitude, slavery or similar practices, forced labour or services, begging or forced pregnancy, forced or servile marriage, illicit trade in human organs, fluids and tissues, sale of persons, commercial sexual exploitation, illegal adoption or the recruitment of persons under 18 years of age for use in criminal activities shall be guilty of the offence of human trafficking and shall incur a penalty of 10 to 15 years' imprisonment, general disqualification for a period equal to double that of the term of imprisonment and a fine of 150 to 250 times the minimum monthly wage.

183. This penalty shall be increased by half in the following cases:

- (a) Where the victim is under 18 years of age;
- (b) Where the perpetrator is the spouse, partner or relative of the victim up to the third degree of consanguinity or affinity;
- (c) Where the perpetrator uses force, intimidation, deceit or the promise of work or supplies the victim with drugs or alcohol;
- (d) Where the perpetrator exploits his or her own business, position, job or role;
- (e) Where the perpetrator exploits the trust of persons who hold authority over the victim or makes payments, loans or concessions to obtain their consent;
- (f) Where the offence is committed by a criminal group comprising three or more members; and
- (g) Where the victim becomes disabled or contracts a life-threatening disease as a result of the abuse he or she suffers.

184. Under no circumstances will consent given by the trafficking victim or his or her legal guardian be taken into account.

#### **D. Judges with national jurisdiction to hear cases involving organized crime**

185. In cases involving organized crime, such as national or international networks engaged in the commercial sexual exploitation of or trafficking in children and adolescents, when the life or physical integrity of the victim or their family members may be endangered if the case is heard by a local judge, a judge with national jurisdiction may be assigned to hear cases against members of these organized crime networks. The sentences issued by these judges with national jurisdiction in cases involving organized crime networks make it possible for such networks' resources to be used to fund social projects and assistance for victims.

#### **E. Extraterritorial jurisdiction**

186. Article 5 of the Honduran Criminal Code provides that: "The Honduran courts shall also deal with offences committed abroad, where the accused is present in Honduras and one of the following conditions is met ... 5. Where, pursuant to the international treaties to which Honduras is a party, the offence is subject to Honduran criminal legislation for reasons different from those just mentioned, or seriously violates universally recognized human rights. Preference shall be given, however, to the claim of the State in whose territory the punishable act was committed, so that this claim shall be enforced before criminal jurisdiction is exercised by the competent Honduran court."

187. As may be seen, article 5, paragraph 5, of the Criminal Code, quoted above, applies the principle of universality or universal criminal justice in the case of serious human rights violations, which of course includes the human rights of children and adolescents.

188. Article 7, paragraph 1, of the Rome Statute of the International Criminal Court, adopted by Honduras in 2002, defines crimes against humanity as follows:

“For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

(g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity.”

189. In this regard, any person who, acting individually or as part of a State or organization, commits such acts multiple times as part of a deliberate policy, shall be extradited and brought before the International Criminal Court, whose jurisdiction over such crimes against humanity is not subject to any statute of limitations (Rome Statute, art. 29).

## F. Extradition

190. Honduras recognizes extradition as a means of avoiding impunity for serious offences, including those involving acts prohibited by the Protocols to the Convention on the Rights of the Child, and has recently adopted constitutional amendments in this regard.

191. The current Constitution of Honduras, which dates from 1982, originally established limitations on extradition in Title III on statements, rights and guarantees, chapter II on individual rights:

Article 101, paragraph 3 – “The State shall not authorize the extradition of persons accused of political and related offences”. This, in principle, does not prevent the punishment of acts prohibited under the Protocols to the Convention on the Rights of the Child.

Article 102 – “No Honduran may be expatriated or handed over by the authorities to a foreign State”.

192. However, on 25 January 2012 Congress ratified at its second session an amendment to article 102 of the Constitution providing that “extradition shall be permitted in cases involving drug trafficking and related crimes, organized crime and terrorism. It shall not be permitted in cases involving political and related offences.”

193. The amendment also established that, in order to arrange for extradition, the State of Honduras must “establish agreements with each country with which it wishes to carry out extradition procedures”. It did not, however, specifically address the issue of the extradition of Hondurans under a multilateral treaty, such as the Rome Statute of the International Criminal Court, in cases falling within its jurisdiction.

194. In Honduran secondary legislation, the extradition of Hondurans is prohibited under article 10 of the Criminal Code, quoted below. However, in the light of the above-mentioned constitutional reform, this provision will need to be amended to allow for the extradition of Hondurans in cases where it is permitted under the Constitution.

Article 10 – “In no case shall an extradition request be granted in respect of Hondurans who, having committed an offence abroad, are present in the national territory. Foreigners may be extradited only for ordinary offences carrying a penalty of not less than one year of deprivation of liberty; extradition may never be granted

in respect of political offences, even where such offences involve an ordinary offence.”

195. Article 150 of the Code of Criminal Procedure states as follows: “Extradition of Accused Persons. The extradition of an accused or convicted person shall be governed by the international treaties to which Honduras is a party and by national laws.”

196. Requests submitted to or received from foreign courts are processed through diplomatic channels. In exceptional cases, a judge may take such steps in another State as are authorized by the latter (Code of Criminal Procedure, art. 149).

197. Some bilateral extradition agreements have been signed between Honduras and other States. The procedure for receiving extradition requests is as follows: the requesting country submits the request through diplomatic channels. The Ministry of Foreign Affairs refers the request to the appropriate ministry, which then refers it to the Supreme Court. Once the request has been reviewed and its implementation through administrative channels has been ordered, the documentation is returned to the requesting State through the channel by which it was received.

198. Below are some examples of existing treaties that may allow the extradition of Hondurans following the constitutional reform:

- Extradition treaty between Spain and Honduras, signed ad referendum at Tegucigalpa on 13 November 1999;
- Treaty on mutual legal assistance between Honduras and Brazil, signed on 7 August 2007;
- Treaty on extradition and fugitives from justice between Honduras and the United States of America, signed on 10 July 1912; and
- Treaty on mutual legal assistance between Mexico and Honduras, adopted on 24 March 2004.

199. These treaties may be invoked in cases involving acts prohibited under the Protocol. Given the growth of international organized crime, however, Honduras and other States should review the provisions of these treaties setting out the procedures to be followed in various areas, including human trafficking and the commercial sexual exploitation of children and adolescents, so as to facilitate mutual assistance and international cooperation in matters of extradition, thereby avoiding impunity for such illegal acts.

#### **G. Administrative and law enforcement sanctions for the commercial sexual exploitation of children and adolescents: confiscation, forfeiture, search and closure of premises**

200. Legislative Decree No. 26-2010 of 5 May 2010 adopts the Act on Civil Forfeiture of Illegal Assets, article 1 of which establishes the following objective:

“To combat organized crime in accordance with the provisions of the United Nations Convention against Transnational Organized Crime and other international instruments ratified by Honduras and to protect the legitimate public interest, for the benefit of society, the public good and good faith, by the divestment of goods, products, implements or profit acquired or generated in breach of the law.”

201. In 2011, the Public Prosecution Service established a special prosecutor for asset forfeiture and the judiciary appointed a judge with national jurisdiction to deal with forfeiture cases. The State thereby established the legal and institutional framework for the



forfeiture of private property owned by persons unable to provide any proof of lawful ownership.

202. Following criminal investigations in general, and specifically investigations of crimes involving the commercial sexual exploitation of children and adolescents, the Public Prosecution Service may institute criminal proceedings and, at the same time, pursue forfeiture proceedings in respect of assets derived from conduct prohibited under the Protocol and whose lawful origin cannot be shown.

203. Public institutions which, by virtue of their legal mandate, play an important role in the fight against organized crime and the forfeiture of illegal assets include the Supreme Court, the National Council against Drug Trafficking, the Attorney General of the Republic, the Special Prosecutor for Asset Forfeiture, the Office of the Counsel-General of the Republic, the National Commission on Banking and Insurance, the Ministry of the Interior and Population, the Ministry of Security, the Ministry of Finance, the Ministry of Defence, the Ministry of Foreign Affairs, the National Registry of Persons, the Property Institute, the Department of the Merchant Marine, the Executive Directorate of Taxation and the Directorate-General for Migration and Foreign Nationals.

204. The Municipalities Act provides that each municipal headquarters is autonomous. Nevertheless, cosmetics or beauty salons and other businesses where children and adolescents engage in activities prohibited under the Protocol are subject to the seizure, closure or penalty provisions applicable in their respective jurisdictions. Municipal authorities have legal authority to order the temporary or permanent closure of any premises in breach of the relevant legislation, in particular in cases of the commercial sexual exploitation of children and adolescents. These measures complement the provisions of the Criminal Code applicable to the perpetrators of such offences.

## **H. Adoption in Honduras and the fight against the sale of children and adolescents**

205. Historically, adoption in Honduras has gone from being a legal relationship allowing for the creation of kinship ties limited to certain purposes, requirements and situations (limited adoption arrangements) to becoming a legal institution that establishes equal, permanent and complete ties of kinship between the adopter and the adoptee parties (full adoption). The latter is a post-Convention on the Rights of the Child legislative trend.

206. The constitutional basis for adoption is article 116 of the Constitution of Honduras, which establishes:

“Married or de facto couples’ right to adopt is recognized. The placing of children for adoption by same-sex married or de facto couples shall be prohibited. This institution shall be regulated by the law.”

207. The definition of adoption is set out in article 62 of the Code on Children and Adolescents, which provides:

“Adoption is a legal institution of protection that aims to integrate into the family, under the same or similar conditions as a child born of a marital relationship, a person not biologically descended from the adoptive parent, so that he or she may attain his or her full physical, mental, spiritual, moral and social development.”

208. The Adoption Department of the Honduran Institute for Children and the Family is in charge of the adoption process. The Department’s administrative regulations establish strict requirements for applicants, prevent default by agencies and take into account the best conditions and interests of the children and adolescents placed for adoption.

209. In order to ensure the suitability of adoption applicants, since the mid-1990s part of the procedure has been conducted by the placement committee, a collegiate body that was for several years composed only of the Executive Director, the Secretary General and the Chief of the Institute's Adoption Department. At the end of 2003, as a result of measures implemented by the first board of government nominees, its membership was broadened to include representatives of the judiciary, professional associations, the Counsel-General of the Republic and other institutions, which has helped make adoption procedures more transparent.

210. Although the institution of adoption has constitutional status, its legislative development is covered by the Family Code and by the Code on Children and Adolescents, which, in practice, has been replaced by the administrative regulations of the defunct National Social Welfare Board. These are known as the regulations on adoption of the Institute's Adoption Department, which, thanks to the establishment of the placement committee, has helped to make adoption procedures more transparent.

211. Given the importance of the interests at stake in adoptions, there is a need for a body of regulations that provide for transparent, time-bound procedures; compliance with the conditions of adoptability; unambiguous requirements; monitoring of national and international adoptions; definition of legal and administrative competences; ban on intermediaries in the processing of adoptions; modernization of the unit or department in charge of authorizing adoptions; enhancement of the role of temporary home or supportive family arrangements, etc.

212. In that connection, it is important to point out that, in the context of a national legal review and as the result of a national legal reform process that was initiated in 2004, draft legislation on international child abduction and draft legislation on adoption has been prepared as part of a project aimed at consolidating the national legal system, in line with the Convention on the Rights of the Child and the Optional Protocol on the sale of children, child prostitution and child pornography. Given the delay in the adoption of both laws, lobbying activities will be conducted to promote adoption by Congress.

213. In view of the fact that the approval of the adoption act had been long overdue, a high-level committee was set up on 2 July 2012 to promote the draft within Congress and the act was adopted during its 2012 session. The committee is composed of the Ministry of Justice and Human Rights, the Office of the Special Prosecutor for Children attached to the Public Prosecutor's Office, the Supreme Court, represented by one of its judges, the Directorate of the Judicial Training College, the Congressional Committee on Children and Adolescents and the COIPRODEN children's rights network.

214. The State of Honduras is pleased to inform the Committee that, acting on its recommendations, Honduras ratified the Inter-American Convention on Conflict of Laws concerning the Adoption of Minors on 7 July 2008 and is in the process of ratifying the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

### **Irregular adoption**

215. Article 171 of the Code on Children and Adolescents provides:

“Any person promoting or effecting the adoption of a child without fulfilling the requirements established in this Code and in the Family Code, or engaging in irregular practices that are harmful to the child, shall be liable to between 4 and 6 years' imprisonment.

The foregoing sentence shall be increased by two thirds where:

1. The act is committed for purposes of profit; or

2. The person committing the act has taken advantage of his or her official or professional situation. In such circumstances, that person shall lose his or her job and shall be debarred from exercising his or her profession for five years.”

216. Article 123 A of the Family Code establishes a subsidiary offence:

“It is prohibited for the biological father or mother, or the guardian of the minor or minors, or any other person representing them to receive any payment or benefit in return for the minor’s or minors’ adoption. It is also prohibited for any person to give or promise any kind of benefit to the biological parents or guardian of the adopted child or children.

Any breach of this rule shall be punishable by imprisonment for three years and a day to six years if the act does not constitute a more serious crime under the Criminal Code.”

217. The Trafficking in Persons Act recognizes irregular adoption as a form of trafficking, if the adoption is equivalent to the sale of children, insofar as it is preceded by abduction, kidnapping or illegal transfer.

218. In all the above cases, the Public Prosecution Service may take action, in response to a complaint or of its own motion, against the persons perpetrating or participating in such acts.

## **V1. Protection, comprehensive care, recovery and reintegration**

219. The State of Honduras has adopted measures for the protection, comprehensive care, recovery and reintegration of children and adolescents by taking action to prevent and, where applicable, investigate, punish and make reparation for infringements or violations of children’s and adolescents’ rights.

### **A. Child protection obligations**

220. Article 119 of the Constitution establishes the obligation of the State to “protect children” and subsequently specifies in article 124 that “all children shall be protected against any form of abandonment, cruelty or exploitation”. It also lays down, in article 121, the obligation for parents to ensure the well-being of their children.

#### **1. “Preventive child protection” provided by the Code on Children and Adolescents**

221. The main legal basis for the legislative measures adopted by the State of Honduras on the protection of children and adolescents is the Code on Children and Adolescents. Book II, title I, article 83, of the Code on Preventive Child Protection provides that society as a whole is responsible for the protection of children, but parents or legal guardians or, failing them, the State are responsible for their direct care.

222. As part of the general preventive protection measures established in the Code on Children and Adolescents, article 85 provides for confidentiality in all matters pertaining to children. Accordingly, administrative and judicial files concerning children may be viewed only by the parties, staff and officials directly involved in the cases.

223. Article 85 of the Code on Children and Adolescents further provides that the media must refrain from publishing any information on the active or passive involvement of children or adolescents in unlawful activities, which naturally includes victims of commercial sexual exploitation and trafficking.

## **2. Prevention and protection measures**

224. Given the vulnerability of children and adolescents to commercial sexual exploitation, they are barred from entry to or residence in commercial premises serving alcohol, gambling or betting halls, motels, brothels, clubs or similar establishments, in accordance with the prohibition set forth in article 97 of the Code on Children and Adolescents.

225. Similarly, pursuant to article 98 of the Code on Children and Adolescents, children and adolescents may not stay in hotels, guesthouses, day-care centres or similar establishments unless they are accompanied by their father, mother or legal guardian, or unless those persons have granted written permission.

226. The rule above is complemented by guest registration regulations and a penalty of one to three minimum wages for hotel owners, administrators or managers and similar who fail to comply with registration requirements or refuse to cooperate or provide information about their guests, in conformity with articles 83 and 137 of the Regulations on Migration and Foreign Nationals.

227. With regard to children's and adolescents' departure from the country, article 101 of the Code on Children and Adolescents provides that "they may leave the country only if accompanied by their father, mother or legal guardian or, failing them, a person holding written permission. If both parents have custody, the written permission of the other parent is required if only one of the parents accompanies the child on its journey". The Immigration and Foreign Nationals Directorate implements this measure at all Honduran border posts as a means of preventing commercial sexual exploitation and human trafficking.

## **3. Protection of children and adolescents from economic exploitation**

228. Article 114 of the Code on Children and Adolescents affirms the duty of the State of Honduras to "formulate policies and develop, promote and carry out programmes aimed at the gradual abolition of child labour". Article 115 lays down the obligation for the Ministry of Labour and Social Security to prevent the economic exploitation of children and adolescents and to ensure that they do not engage in "hazardous work or work that hinders their education or harms their health or their physical and mental development".

229. The above is related to the State's commitment with regard to one of the worst forms of child labour: commercial sexual exploitation. In this connection, please refer to paragraphs 105, 106, 107, 108 and 109, which describe the Road Map for the Prevention and Eradication of the Worst Forms of Child Labour and the National Action Plan for the Gradual and Progressive Elimination of Child Labour in Honduras, respectively.

## **B. Institutions and mechanisms specializing in child rights protection**

230. With regard to child rights protection mechanisms, the Committee on the Rights of the Child, in paragraph 18 of its concluding observations on the third periodic report of Honduras, recommended that the "State party [should] establish a national Ombudsman for Children, and provide that person with adequate human and financial resources". The United Nations Human Rights Council, in recommendation 83.6 of the Universal Periodic Review, suggests that Honduras should establish "an institution specifically addressing the rights of children".

231. The State of Honduras is aware that it still has no institution specifically addressing the rights of children. However, it does have the Office of the National Commissioner for Human Rights and the Honduran Institute for Children and the Family.

232. The Office of the National Human Rights Commissioner was established in accordance with the Principles relating to the status of national human rights institutions (Paris Principles) adopted by the United Nations General Assembly in 1993, under Legislative Decree No. 2-95 amending article 59 of the 1982 Constitution of the Republic, which states:

“Article 59. ... To guarantee the rights and freedoms recognized in this Constitution, the Office of the National Commissioner for Human Rights is established. The organization, prerogative and powers of the National Commissioner for Human Rights shall be the subject of a specific law.”

233. The Office of the National Commissioner for Human Rights is staffed by specialized teams dealing with processing and following up complaints of individual human rights violations, including children’s rights. However, to date there are no specialized programmes that could be characterized as national child rights protection mechanisms within the meaning of the Optional Protocol. Some civil society organizations are therefore calling for the implementation of recommendation 83.6 of the Human Rights Council and recommendation 18 of the Committee on the Rights of the Child referred to above.

234. The Honduran Institute for Children and the Family was established pursuant to Legislative Decree No. 199-97 for an indefinite period as an independent social development institution with legal personality and equity capital. It is the principal technical authority of the State on child- and family-related matters and its purpose is to ensure the comprehensive protection of children and family cohesiveness. Despite its mandate, the Institute has not had a significant impact on child protection and currently spends more than 93 per cent of its budget on wages and salaries.

235. Having regard to the recommendations of the Committee on the Rights of the Child and the Human Rights Council and the situation described above, the Honduran Government announced in August 2012 the forthcoming referral of preliminary draft legislation establishing the office of the children’s advocate attached to the Ministry for Justice and Human Rights, which would repeal the Act establishing the Honduran Institute for Children and the Family. The Institute’s services will be devolved to the country’s 298 municipalities, of which only 36 receive such services to date.

236. The new institution will be the public body responsible for the formulation, coordination, management, monitoring and evaluation of public policies, programmes and services pertaining to children, within the framework of the Constitution, the Code on Children and Adolescents and other relevant national legislation, as well as the Convention on the Rights of the Child and other related treaties that Honduras has signed or will sign.

237. The other institutions concerned with the protection and defence of the rights of children and adolescents are described in Section II C of this report, which deals with the institutional framework.

238. In order to guarantee protection for victims, a number of different institutions work together and coordinate protection measures between them:

(a) Office of the Special Prosecutor for Children. Processes complaints involving sexual violence (incest, rape, commercial sexual exploitation, human trafficking and other offences) against the victim or other underage persons. It also cooperates with the Forensic Medicine Department;

(b) Division against the Abuse, Trafficking and Commercial Sexual Exploitation of Children and Adolescents of the Ministry of Public Security. Coordinates with others in taking action when there is a need for emergency protection measures for the victim or any other member of the family. It also supports awareness-raising and training activities for families and various social groups within the community;

(c) Ministry of Public Health. Coordinates State action aimed at facilitating minors' access to the different programmes targeting adolescents, such as one-stop health clinics for adolescents, reproductive health programmes and programmes for the prevention of HIV/AIDS and other sexually transmitted diseases;

(d) Family courts, domestic violence courts and children's courts. Coordinate the implementation of the Domestic Violence Act, on behalf of the victim or any other member of the family. Also responsible for processing alimony, custody, the international travel ban, social risk and other procedures needed to protect victims;

(e) Ministry of Public Education. Coordinates with other public institutions and NGOs specific programmes to reintegrate child victims of commercial sexual exploitation and human trafficking into the formal or alternative education system;

(f) National Institute for Vocational Training (INFOP). Develops programmes that facilitate access to training for underage victims of sexual violence or human trafficking or persons vulnerable to such situations;

(g) Office of the First Lady, in coordination with the Ministry of Foreign Affairs. In the framework of a programme created by the National Institute for Migration in Mexico to safeguard the physical and emotional integrity of unaccompanied migrant children as a response to the dangers they face along their migration route, putting their lives at risk, child protection officers have been appointed. Officials and staff of the Immigration and Foreign Nationals Directorate, the national police, the Honduran Institute for Children and the Family, the Migrant Centre, Casa Alianza, Congress, the Office of the Special Prosecutor for Children, the Ministry of Foreign Affairs and other institutions working with migrants, have been trained for that purpose.

## **C. Public plans and policies for the protection of child and adolescent victims of conduct prohibited under the Optional Protocol**

### **1. Guidelines on Comprehensive Care for Child and Adolescent Victims of Commercial Sexual Exploitation**

239. In exercise of its prerogative to formulate, promote and implement prevention policies and the comprehensive protection of children, the Honduran Institute for Children and the Family, in coordination with the public and private sectors, has issued the Guidelines on Comprehensive Care for Child and Adolescent Victims of Commercial Sexual Exploitation.

240. The Guidelines are intended for agencies of the Honduran Government dealing with this issue, particularly the Institute, and all NGOs that care for victims of commercial sexual exploitation, in order to ensure uniformity of criteria and consistency of approach, thus facilitating the restoration of the rights of children and adolescents of both sexes.

241. The Guidelines are part of a comprehensive response to the situation facing child and adolescent victims of the crime of commercial sexual exploitation. It is an integrated intervention plan based on a human rights approach that meets both their individual needs, and those arising out of their family circumstances, providing for specific activities and care strategies. The main aim is to ensure that children's and adolescents' human rights are exercised and respected, along with their right to life, health, education, non-victimization and other rights.

242. The objective of the Guidelines is to establish minimum procedures for the care of children and adolescents who have been subjected to commercial sexual exploitation, while at the same time fully respecting their human rights. In accordance with this objective, the

Guidelines establish a procedure for the care of children and adolescents subjected to commercial sexual exploitation, divided into three stages:

**(a) Identification and registration**

243. The care procedure will start with the identification of a child or adolescent who has been subjected to commercial sexual exploitation. This is the point at which the facts relating to the ordeal of the person concerned by commercial sexual exploitation can be ascertained.

244. It is necessary to identify the reasons why the child or adolescent became a victim of commercial sexual exploitation, since that information makes it possible to plan what action to take to resolve or overcome the circumstances that led to such exploitation.

**(b) Primary intervention**

245. On the basis of information gathered at the stage described above, the second stage is to arrange for integrated services that will guarantee the right to life of a child or adolescent and his/her protection from the sex trade.

246. At this stage, the essential objective is to ensure the protection of children or adolescents who have been subjected to commercial sexual exploitation against any form of abuse or the risk of further victimization by the exploiters and to guarantee their health.

**(c) Secondary intervention**

247. Once the objectives of ensuring protection and safety have been achieved, the machinery is set in motion to devise a workplan that will integrate the efforts directed at assuring child or adolescent victims the full enjoyment of their human rights.

248. The effect of this intervention will be to reduce the impact of the abuse and ways will be sought to promote the desired positive changes that will bring about a lasting transformation in the everyday life of a child or adolescent and his or her family environment.

249. What needs to be done is to give victims the strength to start a new phase in their lives, with full enjoyment of their rights. To achieve this, it is necessary to take into consideration the specific needs of the child concerned, depending on his or her age, sex and personal circumstances, whether physical, emotional, psychological and social.

250. This phase includes the need for the interdisciplinary team of the Institute's Programme of Intervention and Social Protection, or any agency fulfilling the same functions, to take the following action:

(a) Guarantee the exercise of all rights, including the right to education, recreation, participation and family life;

(b) Provide proper care for chronic health problems to enable children or adolescents to recover and put into place treatments that will make it possible for them to overcome the physical effects of the exploitation to which they were subjected;

(c) Provide for the emotional recovery of children or adolescents from the violence that they have suffered;

(d) Strengthen family and community networks to help protect children;

(e) Help victims recover from the consequences of sexual exploitation;

(f) Integrate or reintegrate victims in the formal educational system;

(g) Develop vocational capacities and skills so that persons over 14 years of age may, insofar as Honduran law permits, find economically viable work; and

(h) Seek alternative means of economic survival for such persons or their family unit. Many adolescent girl victims are themselves mothers, so their financial needs have to be taken into account in order to ensure that the girls concerned do not have cause to be tempted back to commercial sexual exploitation. In such cases, the procedure is to devise an economic alternative for the young woman concerned, such as occupational training, employment or small enterprises.

## **2. Handbook on Prevention and the Protection of Children and Adolescents from Sex Tourism**

251. The Honduran Tourist Board is responsible for the implementation of the Programme for the Prevention of the Commercial Sexual Exploitation of Children and Adolescents. It therefore issued the Handbook on Prevention and the Protection of Children and Adolescents in recognition of the fact that the tourist sector is made up not only of enterprises and the authorities dealing with them but also of beneficiaries and clients and therefore directly or indirectly involves people who may be sexually exploiting children and adolescents and using existing tourist structures and networks for that purpose.

252. The main purpose of the Handbook is therefore to provide managers and workers in the tourist sector with the necessary knowledge to enable them to take action to prevent and combat the problem, by identifying risk indicators and reporting suspicious behaviour.

253. A number of national groups in the tourist sector throughout the country have explicitly committed themselves to the campaign to eradicate the commercial sexual exploitation of children and adolescents in tourism, including:

- (a) Honduran Tourist Board;
- (b) Small Hotels Association;
- (c) Association of Tour Operators; and
- (d) Association of Car Hire Firms.

254. The Handbook complements the Code of Conduct for the Protection of Children and Adolescents from Commercial Sexual Exploitation in Tourism, which, as described in chapter IV above on prevention, has been adopted by a large part of the national tourist sector.

## **3. Handbook of legal and investigative procedures in cases of child sex abuse and commercial sexual exploitation**

255. Criminal reform introduced in 2005 updated the criminal categories of child sexual abuse and included a new chapter on commercial sexual exploitation.

256. It became necessary to provide the agencies responsible for investigating and prosecuting the offence with the means to establish basic criteria for the investigation of offences relating to child sexual abuse and commercial sexual exploitation in order to improve the efficiency of the stage of the proceedings at which the facts are uncovered and the perpetrators identified and thus make it possible to carry out a brief assessment of the scope and effectiveness of each of the provisions covering such offences.

257. A collaboration between the Office of the Special Prosecutor for Children and UNICEF resulted in a handbook of legal and investigatory procedures in cases of child sexual abuse in general and commercial sexual exploitation in particular. The handbook consists of a series of guidelines aimed at improving the investigation of offences involving



attacks on the sexual freedom of children and adolescents, sexual exploitation and trafficking, with a view to taking all the necessary measures for the immediate identification of such offences and providing effective protection.

258. The recent adoption of the Trafficking in Persons Act, however, has made it necessary to bring the handbook up to date in order to address the new criminal category of trafficking, which replaced the provision previously contained in the Criminal Code following the 2005 reform.

#### **4. Practical guide to effective care for victims of sexual offences, commercial sexual exploitation and their investigation**

259. In 2009, concerned at the growing incidence of sexual offences and commercial sexual exploitation, the Public Prosecution Service, acting through the Office of the Special Prosecutor for Women and the Office of the Special Prosecutor for Children, drew up a practical guide to effective care for victims of sexual offences, commercial sexual exploitation and their investigation, with a view to providing guidance and training for the staff of regional and local offices of the Public Prosecution Service throughout the country in providing professional care for the victims of sexual offences and commercial sexual exploitation.

260. The main objective is to ensure that persons who have been subjected to sexual offences, commercial sexual exploitation and domestic violence do not become victims again. It is also proposed to institute effective investigations with a view to preventing impunity and working for the imposition of sentences in line with the arguments put forward by the Public Prosecution Service, acting as a representative of the general interests of society.

261. The guide sets out important aspects of the subject, including the legal framework, the principles that outweigh respect for human dignity, the place where complaints can be lodged, who can lodge a complaint and the factors that have to be taken into account when a complaint is received and a victim is interviewed. Other recommendations relate to the considerations that are most important for victims, specific details to be investigated and complaints.

#### **5. Protocol on the repatriation of child and adolescent victims of trafficking or at risk of being trafficked**

262. The Protocol for the repatriation of child and adolescent victims of trafficking or at risk of being trafficked was adopted in 2007. It sets out the procedure to be followed in repatriating children or adolescents who are victims of trafficking or at risk of being trafficked, establishing within the country's legal framework, to ensure that the institutions concerned act in a timely and appropriate manner. Its basic principle is the best interests of the child or adolescent and the prevention of further victimization. Despite the valuable work that went into producing the Protocol with a view to ensuring the repatriation of victims of trafficking in persons, it has still not become widely enough known or applied by the officials responsible for its implementation.

263. The Honduran Institute for Children and the Family will provide special protection for victims or persons at risk of trafficking, while the repatriation is processed. Such protection involves, as a minimum:

(a) Safe and appropriate accommodation. Temporary refuge will be provided in a hostel or other premises that provides safe conditions not only for the child or adolescent concerned but also for the people protecting them, so the procedure will be coordinated with the Ministry of Security. Under no circumstances will temporary refuge be provided in an institution for offenders under 18 years of age;

- (b) Balanced food that meets the particular needs of the child or adolescent;
- (c) Medical and psychosocial care;
- (d) Inclusion in educational and recreational programmes, with due regard for safety considerations;
- (e) Victims to be kept informed about their situation, depending on their age, maturity, language and cultural characteristics, always taking into account their opinion on the procedures taking place; and
- (f) Special protection for pregnant young girls or adolescents and non-separation of families.

264. The Protocol provides that, where a girl who is a victim of trafficking or at risk of being trafficked is pregnant, she will be provided, in addition to the protection referred to in the previous paragraphs, with specialized care at the prenatal and postnatal stages and care also during childbirth. Under no circumstances will a mother under 18 years of age be separated from her child on the grounds of nationality. A child born in such circumstances must be provided with documentation for his or her identification and protection by the relevant institution in a timely manner. Despite the fact that the State is required to act in accordance with the Protocol in health matters, the national health service, and the institutions concerned, do not comply with these requirements as they should.

#### **D. Main centres of protection for children and adolescents**

265. The care and protection institutions currently operating in Honduras fall into various categories.

266. There are eight State-owned therapeutic centres serving the whole country, which are administered by the Honduran Institute for Children and the Family, of which four are shelters operated directly by the Institution: the Casitas Kennedy Shelter, which currently houses 90 boys and girls ranging in age from less than 1 year to under 18; the Casitas 21 de Octubre Shelter, which currently houses 65 boys and girls aged 12 to 17; Casitas Adolescentes, which currently houses 70 boys aged 12 to 17; and the Nueva Esperanza Shelter, which currently houses 125 boys and girls ranging in age from less than 1 year to 12 years old. These temporary shelters are residential centres staffed by an interdisciplinary team, with the aim of ensuring comprehensive protection for the rights of the children and adolescents under their protection. The first two centres are located in Tegucigalpa, Municipality of the Central District, Francisco Morazán Department, while the others are in San Pedro Sula, Cortés Department.

267. It may be noted that the civil society organizations devoted to the protection of children on a full-time basis are calling for improvements to the current conditions of accommodation and food and the general treatment of children and adolescents.

268. The other four centres are educational establishments, also run by the Institute. These are Renaciendo, Sagrado Corazón de María, Jalteva and Carmen. As in the case of the protection centres, various civil society organizations involved in child protection are calling for the current conditions of detention, provision of food and general treatment of children and adolescents to be improved.

269. There are two State-run psychiatric centres caring for adults and child and adolescent victims: the Dr. Mario Mendoza Hospital and the Santa Rosita Hospital, both run by the Ministry of Health. The public is calling on such centres to improve their infrastructure, their heating arrangements, specialized treatment and support by ancillary

medical staff for persons with psychiatric illnesses, and proper medical equipment for the treatment and cure of such illnesses.

270. A new centre for migrant children has now been opened: El Edén, in the north of the country, in San Pedro Sula. The Casitas Kennedy Shelter, which is located in Tegucigalpa, has programmes to care for such children, but civil society organizations are calling for more such State-owned institutions and the allocation of more funds to run the Shelter.

271. There are 199 shelters run by NGOs, according to the 2010 register of the Honduran Institute for Children and the Family. Of those, 72 provide protection for children and adolescents who have been subjected to sexual exploitation. They are not, however, specifically intended for victims of commercial sexual exploitation or trafficking, with the exception of Hogar Querubines, which is the only one of its kind in Honduras. It will be described further below.

272. Protection centres administered by NGOs care for children and adolescents for a maximum period of two years, or until the situation that led to their admission is resolved. In exceptional cases, where there is no alternative option within the family, this period may be extended. Generally speaking, the services provided by NGOs to protect children are satisfactory.

## **E. Civil society programmes for the protection and reintegration of child and adolescent victims of commercial sexual exploitation and trafficking**

273. Programmes run by civil society organizations complement the work of the State through the establishment of residential centres operated by specialized staff to ensure that the children and adolescents under their protection are able to enjoy their rights.

### **1. Querubines project**

274. An outstanding example of action by civil society organizations is the Querubines project of Casa Alianza, which has set a benchmark over the past few years on care for children and adolescents subjected to sexual exploitation and trafficking.

275. Casa Alianza is an international NGO that cares for abandoned children and adolescents. It was started in 1968 and came to Honduras in 1987. It cares for thousands of children and adolescents in difficulty. Beginning in 2005, to provide an institutional response to the problem of trafficking, it has been running a programme known as Hogar Querubines to provide comprehensive care for girls and adolescents subjected to trafficking and commercial sexual exploitation.

276. During its first five years (2005–2010), more than 318 girls received protection and comprehensive care: 63 per cent had been trafficked within Honduras or abroad, while 37 per cent were victims of commercial sexual exploitation in its various forms.

277. In implementing the programme, Casa Alianza operates on the basis that the most important aspect of assistance and support programmes is that they should be integrated and comprehensive: that is, they should include medical, psychological and legal assistance, accommodation, education and training, otherwise any assistance given will not be satisfactory.

278. It also operates on the basis that, in order to serve the victims' interests, it is best to coordinate and work together in the planning and provision of services, building an integrated plan for the future of a given child or adolescent, taking into account the person's sex and age, and setting the plan put into action by the appropriate qualified staff.

279. Casa Alianza maintains that an essential factor in the recovery of child and adolescent victims is their reintegration with their families. It achieves this through a process of educational counselling of both the victim and his or her family.

280. The process of reintegrating victims with their families requires an assessment of whether the conditions in which they are living are suitable for their optimum possible physical, psychological and social development. Before beginning the reintegration, therefore, the family group or the extended family should be investigated, with a view to enabling the victims to stay with the family, if possible. If that is not possible, owing to the family situation or the victim's individual circumstances, consideration is given to the possibility of placing the victim in alternative care with his or her extended family or with an institution.

281. This approach has provided a substantial basis for Casa Alianza to acquire the experience to protect and care for children and adolescents who have survived trafficking, especially those subjected to trafficking for the purposes of commercial sexual exploitation, which applies to the majority of those cared for in Hogar Querubines.

*Agreement on strengthening the capacities of Government and civil society for the comprehensive protection of children and adolescents, with special emphasis on the smuggling and trafficking of children and adolescents in Central America (Save the Children)*

282. Under this Agreement, Save the Children engages in preventive activities and seeks to strengthen capacities to deal with trafficking in persons, in partnership with civil society bodies, such as the National Forum for Migration in Honduras, in order to achieve its objectives more effectively.

283. One of the components of the Agreement is to raise awareness about the issue of trafficking in persons among the Honduran public with a view to ensuring that children and adolescents do not become victims of this crime. This is being done through the use of methodological strategies adopting a comprehensive approach, bringing together activities relevant to each of the social sectors dealing with prevention, protection and care for vulnerable children and adolescents or victims of the crime of trafficking in persons.

284. These strategies included the issue by Save the Children and the National Forum on Migration of a concise version of the Handbook against trafficking in persons, the aim of which was to share practical knowledge for reflection on the topic, although it could also be used as a practical guide or teaching tool by local authorities.

285. Within the framework of the Agreement, Save the Children, working with Casa Alianza, contributed to the publication of the Protocol on care for victims of sexual violence and trafficking and, with the Directorate-General for Migration and Foreign Nationals, contributed to the publication of the Handbook on procedures for the prevention of trafficking in children and adolescents for commercial sexual exploitation.

286. Save the Children has also provided support for the geographical and social mapping of trafficking in children and adolescents in Honduras; a pamphlet for young people on the prevention of trafficking in children and adolescents; and toolkits of activities to increase understanding of such trafficking through games, videos, puzzles and other devices.

287. Save the Children has also been active in strengthening the institutions of the Office of the Prosecutor for Children attached to the Public Prosecution Service, the Directorate-General for Migration and Foreign Nationals and the national police by training their officials and providing equipment.

## 2. Honduras National Forum on Migration

288. The Honduras National Forum on Migration is a grouping of civil society and private organizations, working in collaboration and coordination with individuals, government agencies and NGOs dealing with migration. Its general objective is to promote respect and protection from the Honduran Government and society in general for the human rights of migrants and their families.

289. Since 2006, the Forum has been coordinating a programme of work on trafficking in persons, focusing on three areas of activity: strengthening institutional capacity, carrying out research and exerting political influence. Its work is directed at helping to strengthen the capacities of civil society organizations, government agencies and international cooperation in order to develop a better knowledge of the facts, thus making it possible to gain a deeper understanding of the means by which trafficking is carried out, its causes and effects, its prevention and protection and assistance to victims from a gender and human rights perspective, so that a collaborative agenda may be developed, leading to a strategy with an integrated approach to trafficking in persons and activities to raise awareness among decision makers, civil society and the general public.

290. The main activities carried out by the Forum with regard to trafficking in persons over the past few years include the following:

- It has encouraged the establishment of inter-agency committees in border areas, such as Las Manos, Aguacaliente, El Poy, Guasaule and El Paraíso, to carry out activities to prevent the offence of trafficking in persons by conducting cross-border exchanges in each of those areas;
- It has promoted opportunities for convergence and inter-agency exchange, arranging conferences, dialogues, debates and forums aimed at different audiences, such as government agencies, NGOs, cooperation bodies, academic bodies and social communication media;
- It has established an annual Migrants Week, organizing various awareness-raising and prevention activities on the issue of migration and trafficking in persons;
- It has established a teacher training module on trafficking in persons. This is a programme run by the leadership team of Global Rights, with logistical support for its implementation provided by the Honduras National Forum on Migration. The programme has three modules aimed at representatives of NGOs, government agencies and cooperation organizations and focuses on developing capacities. The main purpose is to update and harmonize the knowledge of every person involved in any field relating to trafficking in persons, with the emphasis on prevention, protection and assistance for victims from a human rights and gender perspective. International experience and best practices for dealing with trafficking have been analysed and the necessary tools provided to develop and execute plans, policies and programmes on trafficking in persons.

## F. Judicial proceedings in cases relating to child and adolescent victims and witnesses of offences

291. The Honduran judicial system accepts the principle of the best interests of the child or adolescent. This is demonstrated by the protection measures provided for children and adolescents involved in any kind of judicial proceedings. In this connection, mention may be made of the following:

- Increasingly, the country's courts are using special rooms — Gessel domes — to prevent children or adolescents from being victimized again in the course of a trial;
- Cases in which children or adolescents are victims of the crimes of commercial sexual exploitation or trafficking are treated confidentially, not disclosing the victims' personal data or identity;
- The focus of legal proceedings is the restoration of rights;
- Specialized interdisciplinary teams are provided for child or adolescent victims;
- The approach adopted is to work for family and community reintegration; and
- A gender approach is applied in legal proceedings.

292. When a child under 15 years of age first appears before a court and has to be questioned, he or she is not subject to the rules governing adults; that is, he or she is not questioned by a judge but is directly questioned by the parties and the child's parents or legal guardian may be present. If any change occurs in the state of mind of the child or adolescent, the court may suspend the hearing.

293. The same approach is adopted both for children and adolescents who have been victims and for those who have been witnesses of practices prohibited under the Optional Protocol.

294. In cases where, as a result of their statement, the life or well-being of a child or adolescent is placed in serious danger, the court must take measures to protect him or her, either of its own motion or on application by one of the parties.

295. Legislative measures to safeguard the lives and well-being of children and adolescents who give witness statements in courts are set out in the Witness Protection Act, adopted under Legislative Decree No. 63-2007. The Act also established the Programme for the Protection of Witnesses in Criminal Trials, which is operated and coordinated by the Public Prosecution Service. The Programme provides protection for witnesses, their families, their carers and other persons participating in a trial.

296. Although the Act and the Programme have been put in place, victims, witnesses and the general public have repeatedly called for the mechanisms introduced under the Act to be implemented, since the Public Prosecution Service, which is the institution responsible for the Programme, has not made it a priority to provide the technical and financial resources required for its functioning.

297. Lastly, with regard to judicial proceedings in cases relating to child and adolescent victims, it should be noted that, under article 90 of the Code on Children and Adolescents, it is not permitted for the injured party or his or her parents or legal guardians to pardon, explicitly or tacitly, a person who has violated the rights of a child or an adolescent.

#### **G. Protecting the identity of children or adolescents in the interests of maintaining confidentiality and preventing the use of victims and their stigmatization by the media**

298. In the event of cases involving children or adolescents subjected to conduct prohibited under the Optional Protocol, the Code on Children and Adolescents and the Code of Criminal Procedure of the State of Honduras provide that proceedings should be held in camera and that victims should be given protection from the media in order to avoid their stigmatization.

299. Article 34 of the Code on Children and Adolescents provides that “the mass media shall be required to respect the privacy and personal life of children. They may not, therefore, publish interviews, report news or information relating to a child or his or her family or social relationships, if his or her honour may be affected in any way.” A breach of that provision is punished with a fine of 5,000 to 50,000 lempiras.

300. With regard to the obligation to respect the reputation and privacy of children or adolescents, it may be noted that, generally speaking, most of the media have respected this right, as set out in the Code on Children and Adolescents.

301. Meanwhile, article 308 of the Code of Criminal Procedure provides that, although court proceedings in Honduras are held in public, a court may exceptionally, of its own motion or on petition by a party, decide that a trial may be held fully or partially in camera under certain circumstances, including a situation in which a witness, a victim or a perpetrator is under 18 years of age.

## VII. International assistance and cooperation

302. Honduras has undertaken significant measures of cooperation on the prevention, detection and investigation of the offences covered by the Optional Protocol, particularly with States where there is a large number of cases relating to the commercial sexual exploitation and trafficking of children and adolescents, such as Mexico, the United States of America, Guatemala and El Salvador. The agreements signed in that regard include the following:

(a) Central American Regional Convention, signed on 8 July 2006 under the Central America-4 Border Control Agreement, on the implementation of measures to protect children and adolescents moving from one country to another, under which legislation is adopted on the passports of children and adolescents and duly certified and renewed authorization is provided by the parents every time a minor leaves the country;

(b) Central American Regional Agreement with Mexico, signed in March 2008, relating to the implementation of measures to research and promote the protection of migrant children or adolescents exposed to commercial sexual exploitation;

(c) Regional Agreement with Mexico, ratified in November 2007, which deals with the dignified, safe and orderly return of children or adolescents, guaranteeing properly guarded repatriation with the competent authorities and not accompanied by adult migrants;

(d) Project of the United Nations Office on Drugs and Crime (UNODC) entitled “Strengthening of national and regional capacities in preventing and combating trafficking in persons in Central America”, covering Mexico, Central America and the Caribbean, jointly with the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders. The official launch of the project took place in San Salvador, El Salvador, on 23 January 2008, in the presence of attorney generals and other senior officials of the public prosecution services of the Central American countries, who signed a declaration and expressed support for the initiative, the implementation of which ended in 2010;

(e) The aim of the project was to provide regional support for the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Moreover, owing to its connection with trafficking in persons, the United Nations Convention against Transnational Organized Crime was also taken into consideration;

(f) Plan for a framework of regional activities to combat and prevent trafficking in persons in Central America and to care for victims;

(g) This is a project supported by the Inter-American Development Bank over a period of three years, which was developed and operated by the Ministries of Foreign Affairs of El Salvador and Guatemala, the Ministry of the Interior, Police and Public Security of Costa Rica, the Ministry of Internal Affairs and Justice of Honduras and the Ministry of the Interior of Nicaragua;

(h) ECPAT Guatemala was the organization selected by the participating countries to coordinate the implementation of the project. The aim was to establish a framework of regional activities to combat and prevent trafficking in persons, especially for the purposes of sexual exploitation, in Central America and to care for victims. The purpose of the project is to help establish regional standards, policies and procedures to combat and prevent trafficking in persons and improve the care given to the victims of this crime, particularly women and children.

303. To attain the objectives described above, the project will focus on the following four areas:

- National and regional guidelines on ways to combat trafficking. The aim is to develop and adopt national and regional guidelines to strengthen coordination between agencies to combat trafficking in persons;
- Strategy for comprehensive care for victims of trafficking. The aim is to help improve the care given to victims of trafficking in persons by developing and agreeing on a regional strategy in Central America on comprehensive care and support for victims;
- Pilot project for a regional campaign on the prevention of trafficking. The aim is to develop an effective communication strategy that will help prevent trafficking in persons; and
- Annual memorandum and operational programme of the Framework of Regional Activities to Combat and Prevent Trafficking and Care for Victims. This will set out Governments' commitments and regional standards on taking coordinated action on trafficking by drawing up and adopting the Framework of Regional Activities to Combat and Prevent Trafficking and Care for Victims.

304. A key element in the relationship between the State of Honduras and international cooperation has been participation in regional programmes, such as those operated by the International Organization for Migration (IOM), UNICEF, SICA, Save the Children, ECPAT International, the Regional Forum for Migration, the judicial systems of the region, leading agencies dealing with children and NGOs, such as Casa Alianza, the Honduras National Forum on Migration, the Cooperative Housing Foundation, Pastoral Social-Caritas and others.

305. Other recent areas of cooperation include:

- Legislation. Support from IOM and Save the Children in adopting the Trafficking in Persons Act;
- Protocols on care and training for human resources. UNICEF, IOM, ECPAT, SICA, the Inter-American Development Bank, Save the Children, Kindernothilfe;
- Victim care programmes. Cooperative Housing Foundation, Casa Alianza, Pastoral Social-Caritas, the Honduras National Forum on Migration, ECPAT, Kindernothilfe.



306. Acting within the framework of the Ibero-American Conference of Ministers of Justice, in which the Honduran Ministry of Justice and Human Rights plays an active part, the Ministries of Justice of Central America, Panama and the Dominican Republic, have been working towards the harmonization of criminal legislation, as part of the Central American Security Strategy approved by the Central American countries, in order to combat organized crime effectively in Central America, with support from the Spanish Agency for International Cooperation Spain-SICA Fund.

307. The objective is to facilitate cooperation between countries and avoid a situation in which discrepancies and legal loopholes are used to provide protection and cover for criminal activities, which are ultimately able to persist thanks to impunity. Work is therefore being done to harmonize legislation on criminal procedure with substantive criminal legislation, including legislation relating to conduct prohibited under the Optional Protocol, the appropriate procedures for trying those responsible for such conduct and cooperation among States.

308. Civil society organizations have expressed concern that, over the past few years, there has been a reduction in international cooperation, which will make it impossible for them in the short term to continue running projects in this area. The State will therefore have to be prepared to assume the responsibilities that have been borne by civil society organizations, particularly with regard to care for victims and their recovery.

309. As regards cooperation involving education and training in the issues covered by the Optional Protocol, Honduras has developed regional training programmes, with support from UNICEF, ILO/IPEC, IOM and others.

310. Honduras has also taken part in national and international studies in this area.

## A. National research

(1) *La explotación sexual comercial en San Pedro Sula* (Commercial sexual exploitation in San Pedro Sula), UNICEF;

(2) *Investigación sobre el problema de la explotación sexual comercial de niñas, niños y adolescentes* (Research into the problem of the commercial sexual exploitation of children and adolescents), Centro de Estudios de la Mujer-Honduras, 2001;

(3) *Las niñas, niños o adolescents tienen derecho a la privacidad de su cuerpo* (Children and adolescents are entitled to the privacy of their own bodies). Assessment of sexual abuse against children and adolescents carried out by Atlántida Department, 2002;

(4) *Maltrato infantil y abuso sexual* (Ill-treatment and sexual abuse of children). Guide for instructors at integrated development centres, Compassion, 2004;

(5) *Las niñas y niños (o adolescents) tienen derecho a la privacidad de su cuerpo* (Children and adolescents are entitled to the privacy of their own bodies). Assessment of sexual abuse of children and adolescents. Save the Children, Centre for Research and Promotion of Human Rights, Canadian International Development Agency, 2002;

(6) *Diagnóstico situacional sobre la Trata de Personas en Honduras* (Situational analysis of trafficking in persons in Honduras), National Forum on Migration, 2006; and

(7) *Estudio Derechos Humanos de personas sujetas a Trata de personas* (Study of human rights of persons subjected to trafficking in persons), National Forum on Migration, 2007.

## B. Regional research

- (1) *Caminos hacia la prevención y la erradicación de la explotación sexual comercial de la niña, niño o adolescente en Centro América y República Dominicana* (Ways to prevent and eradicate the commercial sexual exploitation of children and adolescents in Central America and the Dominican Republic), ILO/IPEC, 2001;
- (2) *Explotación sexual comercial de la niña, niño o adolescente* (Commercial sexual exploitation of children and adolescents). Practical guide. ILO/IPEC, Rahab Foundation, 2004;
- (3) Document containing basic information on the commercial sexual exploitation of children and adolescents entitled *Cada pieza cuenta* (Every bit counts). Central America, Panama, Dominican Republic. ILO/IPEC, 2005;
- (4) *Explotación sexual comercial* (Commercial sexual exploitation). Practical guide for providers and managers of services for child victims. ILO/IPEC;
- (5) *Compendio de normas internacionales relacionadas a la prevención y eliminación de la explotación sexual comercial de la niña, niño o adolescente* (Compendium of international standards relating to the prevention and elimination of commercial sexual exploitation of children or adolescents), ILO/IPEC, 2003;
- (6) *Investigación Regional sobre tráfico, prostitución, pornografía infantil y turismo sexual infantil en México y Centroamérica* (Regional research on trafficking, prostitution, child pornography and child sexual tourism in Mexico and Central America). Casa Alianza, 2002;
- (7) *La Explotación Sexual Comercial de Personas Menores de Edad* (Commercial sexual exploitation of minors), Casa Alianza, 2004;
- (8) Studies entitled *Contenidos Mínimos para la Legislación en el tema de la ESC en Centroamérica y el Caribe* (Minimum content of legislation on commercial sexual exploitation in Central America and the Caribbean), ILO/IPEC, 2004;
- (9) Commercial sexual exploitation of children and adolescents: “Una mirada desde Centro América” (A Central American perspective), Paniamor Foundation/ECPAT International, 2004; and
- (10) *Explotación Sexual y Masculinidad: Un estudio Regional Cualitativo con Hombres de la población en general* (Sexual exploitation and masculinity: A qualitative regional study of males from the general population), by Salas C., Campos G. et al.. ILO/IPEC, 2004.

## VII. Final observations

311. The present report sets out the situation of the rights of children and adolescents, the national and international legislation safeguarding their rights, the national institutions established to protect their rights and fundamental freedoms, the measures adopted to comply with the Protocol, the successes achieved in this regard and the challenges facing the State of Honduras in eradicating the commercial sexual exploitation of and trafficking in children and adolescents.

312. The process of preparing this document made it possible to engage in a process of interaction and dialogue between the government authorities, civil society organizations involved with the problems of children and adolescents and representatives of international cooperation bodies. This was achieved by the adoption of a working approach based on a critical but also constructive dialogue regarding the problems of the sale of children, child prostitution and child pornography. It produced valuable results, providing an important yardstick for understanding and clarifying how far the country had managed to ensure that children and adolescents enjoyed their rights and to comply with the Optional Protocol on the sale of children, child prostitution and child pornography. The State is pleased to submit the results of this work to the Committee.

313. The submission of reports to the United Nations treaty bodies, and generally to international human rights bodies, forms part of the democratic efforts by the Government of Honduras, to collaborate with the monitoring bodies of the international community in addressing the challenges resulting from the breakdown in the constitutional order in 2009 and the demands of the international community following the country's institutional and political crisis, which affected every sector of national life, and especially children and adolescents.

314. In order to resolve the political and institutional crisis, the Government of Honduras has been working towards national unity and the reconciliation of Honduran society by forming an inclusive Government, under which all political sectors participate in public administration, the main challenge being to ensure that all Hondurans' rights are respected and exercised. To this end, the national human rights protection system has been strengthened with new institutions aimed at improving the State's role in this regard. These institutions include the Ministry of Justice and Human Rights, the Ministry for the Development of the Indigenous and Afro-Honduran Peoples and the Promotion of Policies on Racial Equality, the National Committee against Torture and the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons. Strengthening institutions in this way reflects the efforts made to ensure that the rights of children and adolescents are respected and exercised as the basis for a State governed by the rule of law and the democratic legitimacy of the public service.

315. As previously stated, article 311 of the Constitution provides that children are under State protection. Thus, at the international level, Honduras has signed most of the conventions and treaties aimed at protecting children and adolescents from commercial sexual exploitation and shown its political will to adjust its national standards in that regard. The measures that the State has taken since 2002 confirm its commitment to complying with such international obligations. Honduras recognizes, however, that action taken to date has been insufficient to ensure that some forms of conduct prohibited under the Protocol are prevented from occurring.

316. The year 2002, when Honduras acceded to the Optional Protocol, saw the establishment of the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons, whose work has been described in the present report. The Commission has introduced a wide range of measures aimed at eradicating conduct prohibited under the Optional Protocol. In order to strengthen its institutional authority it was established as a decentralized body, pursuant to the adoption of the Trafficking in Persons Act, separate from the Ministry of Justice and Human Rights, with the mandate of promoting, coordinating, monitoring and assessing activities that lead to the prevention and eradication of such conduct in all its various forms by delivering and implementing targeted public policies.

317. It can be confidently stated that, with the establishment of the Ministry of Justice and Human Rights as the lead body of public policy relating to justice and human rights and the establishment of the Inter-Agency Commission to Combat the Commercial Sexual Exploitation and Trafficking in Persons as a freestanding body, as well as the proposals for reform of the Honduran Institute for Children and the Family, the institutional framework for promoting measures to improve the lives of the children and adolescents of Honduras is being redefined and operationally improved.

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