

El Salvador

Report on Legislation and Public Policies against Commercial Sexual Exploitation of Children and Adolescents

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INTRODUCTION

In El Salvador, sexual abuse and sexual exploitation of children for commercial purposes is dehumanizing. These practices strip defenseless children of their dreams and fantasies, and is considered as the worst problem affecting Salvadoran children.

There are many causes:

- Poverty both real and spiritual, 65% of the population is below the poverty line, a fact that often pushes those families to seek other alternatives, sometimes unconceivable ones, to support themselves.
- Social exclusion, intimately related to the previous point, the lack of basic rights for the family: employment, nourishment, education, health care, basic services, and recreation among others.
- Power relationships within couples and with children and adolescents, relationships that turn biological and generational differences into discrimination, domination and social exclusion based on gender and age
- High indexes of dysfunctional families, in which intra-family violence and sexual abuse specially against women and children are dominant, pushing children and adolescents to leave their homes, an escape and defense mechanism that puts them at risk and increases their vulnerability.
- An increase in delinquency and organized crime both at national and international levels.
- Neglect from institutions and society, understood as a permissive attitude of indifference and carelessness that some government agencies have shown, agencies that are supposed to tackle the issue integrally, but whose attitude has

turned them in voluntary or involuntary accomplices of these practices.

- Lack of public policies that go beyond short term government plans, that provide ongoing support to fight against the scourge, policies that incorporate preventive, corrective, educational, punitive, recovery and reinsertion measures.
- Structural adjustment policies and the economic and financial crisis of the national budget have resulted in a sustained decrease in social investment, resulting in a negative impact on children, adolescents and youth.

LEGISLATION IN FORCE

The issue should be approached in a multidisciplinary way, thus ensuring integral legislation. The basis of the normative legal platform shall have a socio-cultural and biopsychosocial approach, incorporating preventive, punitive, recovery and eradication measures.

Taking into account the previous considerations, there follows a brief review of the issue in El Salvador.

- National legislation and international conventions subscribed by El Salvador condemn commercial sexual exploitation of children and adolescents as a serious violation of children's basic rights, - an issue that violates the legal structure in force worldwide.
- Considering all its consequences it is a serious crime, not only with regards to the victim him/herself, but also to society in general. The Salvadoran legal framework regulates the issue in at least 20 provisions - including our Constitution -, dealing directly with the fight against commercial sexual exploitation. However, the legislation does not deal coherently with the issue in all its crimi-

nal scope. The crime carries a sentence that does not prevent parole, and in some cases there are sentences of up to 3 years imprisonment. Furthermore, the juridical concept is limited and does not include all participants. There are many provisions in force with regards to this issue, but enforcement is difficult due to the fact that they have not been collected altogether in a code or law.

- International legislation: El Salvador has ratified the Convention on the Rights of the Child, ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, ILO Convention 138 concerning Minimum Age for Admission to Employment, the International Covenant on Economic, Social and Cultural Rights, and the American Convention on Economic, Social and Cultural Rights. These instruments are at a secondary level, after the Constitution. El Salvador has neither signed nor ratified the following: Inter-American Convention on International Traffic in Minors, Convention on Repression of Traffic in Persons and of Prostitution, and the Optional Protocol to the Convention on the Rights of the Child.

LEGISLATIVE ACTIONS 2001 - 2002

In 1999 the UN High Commissioner for Human Rights sponsored research that constituted the preliminary stage of the "Draft law against commercial sexual exploitation of children and adolescents" and the "Draft of complementary amendments to the law against commercial sexual exploitation of children and adolescents" that amends sections of 20 laws in force.

Since March 2001, the Committee on Family, Women and Children, with the support of the Analysis Unit of the Legislative Assembly, is updating both drafts, taking into account studies carried out by different institutions during 2000 and 2001, aiming at passing a law that tackles the issue thoroughly through the following actions:

- Urgent and specific amendment to several sections of the Criminal Code and the code of Criminal Procedure, with regards to the concept and its sanctions. November 2001.
- Amendment to the Law against Intra-family violence. May to November 2001.
- In December 2001 submit both drafts on sexual exploitation of children to the Committee on Family, Women and Children. Approval pending, first quarter 2002.
- The National Secretariat on Family, the Supreme Court of Justice, the District Attorney, the Legislative Assembly and a Consultative Forum (where all social actors directly related to children participate) are working on the Code of Children and Adolescence. The Assembly aims at studying and approving it by August 2002. This Code shall serve as touchstone for Public Policies related to rights and integral protection of children and adolescence.

STRATEGIES:

- To tackle as a nation all needs and social problems related to childhood and adolescence, beyond government agendas, group interests and political parties. Conditions of poverty, social exclusion and violations in general, that are everyday issues for most of the population under 18 years of age (48% of 6 million inhabitants), call for a commitment of all government institutions, a joint participation of the three government organs, the District Attorney, local governments, foundations and associations, private companies and all those who ought to and can contribute to the fight against this scourge and its causes.
- The Family Code provides for the creation of a System for Integral Care of the Family. A coordinated effort of the institutions that expressed the urgent need to tackle the issue has resulted in the first step in our path, temporarily called "Liaison Committee on Care for Children and Adolescents at risk or in emergency

situations". These institutions identified commercial sexual exploitation of children and adolescents as their most urgent task. In two months, 4 workshops and seminars were organized and they all had media coverage. Participants included governmental institutions and NGOs. Sensitization has begun.

- To use creativity to generate sources of income for the country, income that may then be earmarked for adolescent and child care. Families and the community should play a role in prevention, and social and economic insertion of the minor. Carry out economic and financial studies, taking into account all Salvadoran resources both within its borders and outside. Strengthen child and adolescent volunteer work in the protection of their rights with Government decentralized participation. Pass laws that will promote studying, sports and recreation for those under 18 years of age and the creation of workplaces for adolescents and youth in general.

- Continue seeking technical, financial and political support from international organizations.
- Request the Central Government to sign three pending agreements and submit them to the Assembly for ratification.

In summary, this is a serious and complex issue difficult to tackle. No institution alone has the capacity to tackle it effectively, consequently coordinated efforts shall be sought from all government institutions, local governments and civil society organizations (foundations, associations, municipal initiatives, local development councils, private companies, etc.), all of them striving together to achieve one same goal: to eradicate the problem. Children are the living portray of present and future El Salvador. Let us work for hope, equality and democracy.