

COUNCIL MONITOR

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COUNCIL UPDATE – ITEM 3 SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN HUMAN RIGHTS COUNCIL, 12TH SESSION 16 SEPTEMBER 2009

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Overview

On 16 September the Special Rapporteur on the sale of children, child prostitution and child pornography Ms Najat M'jid Maalla presented her report and two addendums on her missions to Estonia and Latvia before the Human Rights Council.¹ The key issues addressed during the interactive dialogue included national legislative frameworks, international co-operation, technical assistance and the role of the *Convention on the Rights of the Child* in preventing child pornography. Ms Maalla concluded by responding to questions raised and made suggestions on the next steps to follow.

Presentation of the report

The annual report focused mainly on the thematic area of child pornography on the Internet. It provides alarming statistics of sexual predators on the Internet and defines very clearly all forms of pornography that involve children, thus making it possible for States to identify those acts that should be punished by law. Furthermore, the report outlines the international legal framework that should guide governments in improving their national legal systems for the protection of children from sexual exploitation.

Interactive dialogue

In her opening presentation, Ms Maalla called upon states to adopt **national legislation** that defines a minor and the age of violation as well as legislation that considers pornography involving children to be a punishable offence. Many States supported this measure, stating that punishing perpetrators of such crimes is a part of the legislation in their respective domestic jurisdictions.² Peru pointed out that national legislation should define, prohibit and criminalise child pornography on the Internet. It added that the criminal code of Peru stipulates that perpetrators should face custodial sanctions of up to 12 years for those caught disseminating child porn. Latvia, whose 'political will for the protection of children' was commended by Ms Maalla, assured the Council that since the visit, progress has been made and legislation has been strengthened to protect children against sex crimes. China

¹ A/HRC/10/32 (annual report), Add 2 (Estonia) and Add 3 (Latvia).

² Peru, Indonesia, China, Uruguay, Morocco, Burkina Faso and Indonesia.

encouraged States to adopt national legislation which requires Internet Service Providers, mobile phone operators, search engines and financial institutions to show their responsibility and puts them under an obligation to report cases of illegal activity. It also suggested that States block access to such websites and curb financial transactions linked to these websites.

Significant attention was also paid to **international cooperation** in the fight against child pornography. With a view to coordinating their efforts and making them more effective, a number of States expressed support for regular cooperation between their respective countries to identify child victims, arrest sexual predators and dismantle international networks.³ The Russian Federation referred to the current situation as ‘alarming’ and stressed cooperation was essential in ‘winning the struggle against this evil’. It also claimed that studies show that the main market for child pornography on the Internet is in developed countries. China urged ‘western countries’ to do their best to eliminate demand for child pornography and recommended that States improve their communication and exchange of information. Morocco suggested a harmonisation of national legislation and an ‘interactive and coordinated approach’ between States. In her answers, Ms Maalla acknowledged the importance of cooperation, and added that it should involve cooperation between national police forces with exchange of and regular updating of their databases. She also stressed the importance of having comprehensive global legislation on this issue, to counter the use of new technology for the distribution of child pornography.

Nigeria (on behalf of the African Group) drew attention to the constraints and weaknesses of countries of the South in fighting this phenomenon. Nigeria (on behalf of the African Group) and Senegal expressed support for the recommendation calling for provision of adequate **technical assistance** to developing countries. Senegal suggested that the Council consider ways of providing capacity building to ‘some African countries’, for them to fight more effectively against child pornography on the Internet. In her responses, the Special Rapporteur noted that expertise is required here drawing attention to the great amount of work that has already been done towards this cause. She also thought it would be a good idea for these coalitions and co-operative work to bring in other countries.

The report of the Special Rapporteur emphasised the importance of the **ratification of the Convention on the Rights of the Child (CRC)** and its optional protocols. In addition, it highlighted the direct role that children can play in fighting against Internet pornography and the need to involve them in elaborating policies and projects in this field. Italy pointed out that a discussion on the elaboration of an **optional protocol to the CRC** incorporating an individual complaints mechanism is currently ongoing.⁴ In this regard, it asked if the Special Rapporteur thought that such a new mechanism would ensure children’s rights and their involvement in the fight against sexual exploitation. Uruguay more specifically asked Ms Maalla’s on the impact a possible adoption of an individual complaints mechanism would have on the implementation of the already existing *Optional Protocol on the Sale of Children, Child Pornography and Child Prostitution*. In her answers, Ms Maalla referred to the possible new optional protocol as ‘very good and judicious.’ She stressed that it should be accessible to children at the national level. In her answers, Ms Maalla emphasised that in order for States to combat child pornography on the Internet, States that have not already done so should to show commitment through ratification of the optional protocol of the CRC.

Further information

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- Follow ISHR on Twitter: [@ishr_geneva](https://twitter.com/ishr_geneva).
- Web site of the International Service for Human Rights, providing up-to-date information before, during and after sessions of the Council: <http://www.ishr.ch/council>. During the session, ISHR will provide information about the Council’s proceedings on a regular but not daily basis. You can subscribe to receive alerts of our publications by sending an email to information@ishr.ch.

³ China, Russia, Burkina Faso, Morocco, Korea, Nigeria, Burkina Faso, Senegal.

⁴ See Human Rights Council draft resolution A/HRC/11/L.3 adopted at the 11th session, available at <http://tr.im/zBNk>.

- Oral statements made at the Council, as well as other informal documents and draft resolutions are available on the ‘OHCHR extranet’ at <http://portal.ohchr.org/portal/page/portal/HRCExtranet>. Username: ‘hrc extranet’ Password: ‘1session’.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 12th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/12session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/12session/reports.htm>.

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