



Global Monitoring



Report on the

status of action against commercial
sexual exploitation of children

SOUTH KOREA



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Glossary of terms and acronyms

AIDS: Acquired Immune Deficiency Syndrome

ASEAN: Association of Southeast Asian Nations

CBO: Community-based organisation

Code of Conduct: A code for travel and tourism companies, providing guidance on the protection of children from sexual exploitation

CRC: Convention on the Rights of the Child

CSE: Commercial sexual exploitation

CSEC: The commercial sexual exploitation of children consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. There are three primary and interrelated forms of commercial sexual exploitation of children: prostitution, pornography and trafficking for sexual purposes. Commercial sexual exploitation of children comprises sexual abuse by the adult and remuneration in cash or in kind to the child or a third person or persons.

CST: Child sex tourism, or the commercial sexual exploitation of children by men or women who travel from one place to another, usually from a richer country to one that is less developed, and there engage in sexual acts with children, defined as anyone under the age of 18.

ECPAT: End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes

Grooming: Preparing a child for sexual abuse and exploitation

HIV: Human immunodeficiency virus

ICT: Information and communication technologies

ICTSD: International Centre for Trade and Sustainable Development

ILO: International Labour Organization

ILO/IPEC: International Labour Organization/International Programme on the Elimination of Child Labour

INHOPE: International Association of Internet Hotlines

INGO: International non-governmental organization

IOM: International Organization for Migration
IRC: Internet Relay Chat
ISP: Internet service provider
IT: Information technology
MoU: Memorandum of Understanding
NGO: Non-governmental organization
NPA: National Plan of Action
ODHIR: Office for Democratic Institutions and Human Rights
SAARC: South Asian Association for Regional Cooperation
STIs: Sexually transmitted infections
UN: United Nations
UNDP: United Nations Development Programme
UNESCAP: United Nations Economic and Social Commission for Asia and the Pacific
UNESCO: United Nations Educational, Scientific and Cultural Organisation
UNHCR: United Nations High Commissioner for Refugees
UNICEF: United Nations Children's Fund
UNIFEM: United Nations Development Fund for Women
UNOHCHR: United Nations Office of the High Commissioner for Human Rights
WHO: World Health Organization
WTO: World Tourism Organization

Foreword

Ten years have passed since the First World Congress against Commercial Sexual Exploitation of Children (CSEC) was held in 1996 in Stockholm, Sweden. The Stockholm Congress was a landmark event, providing testimony that convinced the world that sexual violations against children exist in all nations, irrespective of cultural differences or geographic location. It marked the first public recognition by governments of the existence of CSEC and resulted in a commitment to a global Declaration and Agenda for Action, which was formally adopted by 122 governments, as a guide to the specific measures that must be taken for counteraction.

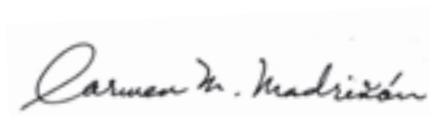
Since 1996, many actors around the world have focused their efforts around this common Agenda for Action and more government and non-government entities have linked, to ensure positive change for children and to protect their right to live free from sexual exploitation. This broad societal alliance (bolstered by a Second World Congress held in Yokohama in 2001, during which the number of countries adopting the Agenda rose to 159 - a figure which has since risen to 161) has made progress in improving protection for children from commercial sexual exploitation. However, the increasing sophistication of resources available to those who seek to exploit children have grown in equal measure. Responding to these challenges requires far more coordinated and targeted work to be undertaken to avoid retrogression.

Experience demonstrates that the level of responsibility and role that a government takes to set and uphold standards of protection, like the lead taken for protecting children's rights, determines the nature, quantity and quality of what the country achieves for its children. Governments can and have accelerated progress for implementation of the Agenda for Action, often opening new and important channels for such work. Nevertheless, their actions have not been uniform and, as these country profiles attest, far more urgent work must be done to protect children from such heinous violations, as these are still perpetrated with impunity in many countries.

This report aims to provide a baseline of information on actions taken and remaining gaps for addressing CSEC in each country, based on the framework of the Agenda for Action, to enable more systematic assessment of progress on implementation of this commitment. It also seeks to contribute to other international mechanisms that exist to protect children's rights; the *Convention on the Rights of the Child (CRC)* and the *Optional Protocol on the sale of children, child prostitution and child pornography* so as to strengthen the implementation and action against commercial sexual exploitation of children at all levels.

Another important objective of these reports is to stimulate the exchange of experience and knowledge among countries and different actors to create a dialogue that can further work against CSEC. While much has been achieved over the last 10 years, many gaps still remain. The implementation of the Agenda for Action is urgently required, for as the reports clearly illustrate, there is a compelling need for global action to protect children from these inhuman violations.

This project is the result of a broad and global collaboration. ECPAT International (EI) would like to thank all those who participated in the work and contributed their inputs, in particular the ECPAT member groups in the countries examined, local experts who provided valuable information and insights, other organisations that shared their experience and information, the dedicated staff and volunteers in the Secretariat of EI and the generous donors who backed the project (more extensive acknowledgements can be found in the Regional Report). This work would not have been realised without their support and solidarity.



Carmen Madriñán
Executive Director, ECPAT International

Methodology

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress of 2001 and in the Mid-Term Review meetings held between 2004 and 2005. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Early desktop research revealed a lack of information in the areas of Recovery, Rehabilitation and Reintegration; and Child Participation. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports would focus only on those areas of

the Agenda for Action where verifiable information could be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; and Protection, and where information on the other two areas was available, it has been included under the specific country or in the regional overview.

Research of secondary sources, including CRC country reports, alternative CRC reports, the reports of the Special Rapporteurs, submissions for the recent UN Study on Violence against Children, as well as research and field studies of ECPAT, governmental and non-governmental organizations, and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion through teleconferences, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation.

They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the Agenda for Action. Thus all reports feature: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see www.ecpat.net for further details); and (vi) priority actions required.



SOUTH KOREA

South Korea's rapid socio-economic development has improved the quality of life for its children and youth, narrowed the gender gap and improved access to education. At the same time, the influence of a strong sexual culture and 'sex merchandising' and the rapid development of information technology (IT) – telecommunications and other media – have contributed to an increase in the commercial sexual exploitation of children (CSEC).¹

South Korea has one of the highest numbers of Internet users in the world: nearly 80 per cent of the population.² Research conducted in 2005 by the Naeil Women's Centre for Youth (the ECPAT group in the country) showed that the Internet is now a more popular venue for trading in sex than 'ticket tea houses' (escort-type services offering prostitution).³

The non-governmental organization (NGO) Korean Women's House reports an average of 100,000 runaway children and youths per year,⁴ many of whom are employed in entertainment establishments for adults and are sexually exploited.⁵ Research⁶ conducted by the Naeil Women's Centre for Youth confirmed that runaway children are at a high risk of being sexually exploited commercially. Of the 442 runaway youths (326 females, 116 males) interviewed, 81 per cent were aged between 13 and 18, while 19 per cent were over 19 years of age. Forty-three per cent of the 442 runaway youths had been approached to engage in the sex trade, and 24 per cent had experience of commercial sex after running away. Friends' houses and *jjimjibang* (sauna/bath houses which operate 24 hours a day and provide sleeping facilities) were cited as popular places for the runaways to sleep at night as they are relatively safe and cheap. However, recent legislation prohibits underage customers, without accompanying adults, from staying in the *jjimjibang* after 10 pm, thereby increasing the vulnerability of runaway minors to violence and sexual abuse, as few other safe options exist.⁷

South Korea has become a destination country for women trafficked for sexual purposes

from China, the Philippines, Russia and Thailand; it also experiences internal trafficking of Korean children.⁸ Some children are trafficked to work in ordinary teahouses during the day and are forced to engage in ‘ticket tea house’ activities at night. The majority of Russian women are brought into the country with forged documents, for example as dancers with an Art & Entertainment Visa (E-6), through promotion agencies and entertainment businesses. Many, however, end up working in nightclubs, bars, karaoke bars, and similar establishments.⁹ According to local groups there is also a high incidence of trafficking in young females from the Philippines, who usually arrive with fake passports showing them to be older than they actually are. They enter Korea illegally through contacts with South Korean “mail-order bride” businesses or through marriage under the Korean Unification Church (another route is through the issuance of the E-6 visa).¹⁰ There is very little evidence of the scale of child trafficking, as most reports refer to trafficking victims as ‘women’ without classifying them by age.

South Korea has been flagged as a source country for child sex tourists, and Korean NGOs have begun to advocate for increased attention to be placed on Korean tourists who seek sexual contacts with children abroad, especially in the Southeast Asia and Pacific regions. The occurrence of such exploitation has been highlighted by research conducted in Kiribati and by other specific cases.¹¹ There are also concerns that child sex tourism, and other forms of sexual exploitation of children by Korean adults, might be facilitated by the high rate of Internet use/connectivity in the country.

South Korea adopted the *Stockholm Declaration and Agenda for Action* in 2004.

NATIONAL PLAN OF ACTION (NPA)

Although South Korea has adopted a number of national plans and policies that address the commercial sexual exploitation of children, a comprehensive and unified national plan of action against CSEC still needs to be developed.

South Korea developed a *National Plan of Action on Children*, which is part of the *Five-Year Social and Economic Development Plan (1998–2002)*¹² and the *Five-Year Basic Plan for Youth Protection (2002–2006)*, which tackles crimes against children, including commercial sexual exploitation. The NPA includes measures to enhance legislation, support institutions

working on child and youth protection, monitor and regulate Internet usage, and prevent sexual crimes and violence against youth. The operations of the Central Inspection Office are run by the National Youth Commission, under the Office of the Prime Minister, to supervise and evaluate the implementation of the Plan, and to regulate environments harmful¹³ to children and youth.¹⁴

In March 2004, the Task Force for the Elimination of Prostitution completed the *Sex Trafficking Prevention Plan*, which includes measures to protect the rights of victims of forced prostitution and to tackle, through various routes, the facilitation of prostitution (for instance, through the use of the Internet and mobile phones). The Task Force introduced the 'John School' system, where men who have solicited prostitutes (or are suspected of having done so) participate in rehabilitation programmes instead of receiving a criminal sentence. ECPAT Korea is involved in the implementation of such rehabilitation programmes.¹⁵

COORDINATION AND COOPERATION

Local and National Level

Child protection issues are handled by the National Youth Commission, which has set up a number of committees to coordinate action against CSEC, comprising both government agencies and NGOs. An example is the Committee on Combating the Sexual Exploitation of Children. In South Korea, many NGOs working on children's rights rely on state funding to operate and their financial dependence on the government has prevented them from engaging in a more critical dialogue regarding the actions that need to be taken. Moreover, only two NGOs actually work on CSEC-related issues, which hinders wider mobilisation against the problem.

Under the National Youth Commission, the Sexual Culture Branch Commission works to create sexual protection policies for youth and to develop educational programmes to prevent illegal sexual activities by youth.

Regional and International Level

The Government of the Republic of Korea is party to a number of international anti-trafficking conventions and seeks to strengthen its role in joint international investigations through criminal cooperation treaties with nearly 30 other nations (extradition treaties and treaties for mutual assistance on criminal matters).¹⁶

In 2003, the 'Expert Group Meeting on Prevention of International Trafficking and Promotion of Public Awareness Campaign' was held in Seoul. The Expert Group identified measures to improve public awareness of trafficking and smuggling in the region, and for concrete cooperation in information sharing and best practices in the fight against human trafficking at operational level.¹⁷ A further Expert Group meeting, on 'Protection of Victims of International Trafficking and Promotion of Public Awareness Campaign', was organised in 2004. The meeting introduced two important pieces of legislation to crack down on the sex trade and protect victims: the *Prevention of Prostitution and Protection of its Victims Act* and the *Punishment of Soliciting Prostitution Act*. The meeting also established common ground for a survey to assess the effectiveness of public awareness campaigns.

The Korean National Police Administration also maintains close contact with embassies abroad in order to assist victims of trafficking.¹⁸

PREVENTION

As a result of various training programmes and campaigns, run by governmental and non-governmental organisations, there has been a significant improvement in general awareness of the problem of commercial sexual exploitation of children within civil society. Reference materials for parents, teachers and professionals working for and with children and youth have also been produced and distributed. In addition, schools (elementary, middle and high) are now running sex education programmes independently. On the other hand, since in recent years the prostitution of minors through 'ticket tea houses' has been reduced through stricter law enforcement, exploiters are actively utilising the Internet to exploit children sexually. Organisations such as Cyber-safety Guardian and the Cyber police are currently undertaking a number of counteractive measures. Furthermore, programmes blocking access to pornography sites are widely available free of charge. Nevertheless, a comprehensive strategy needs to be

devised to tackle the sexual exploitation of children through new technologies by means of a national plan of action that clearly defines and fosters the measures required.

A course on the protection of youth from sexual exploitation for individuals and organisations working for and with children and youth has been run by the Government since 2002. Topics include counselling and reintegration services for CSEC victims. The Government has also funded training programmes and workshops for sex education instructors and staff at youth protection facilities.

South Korea's National Police Agency prints anti-trafficking messages in various languages and details assistance and services offered by the state. The country's embassies in origin countries also distribute leaflets warning visa applicants about sex trafficking. In 2003, the embassies also initiated the wide distribution of brochures, fliers, stickers and other materials to educate the public about CSEC and its prevention. Languages used in these materials include Russian and English.

The Ministry of Gender Equality and Family carried out a number of counter-trafficking activities, including awareness raising, rehabilitation of victims and capacity building for law enforcers.¹⁹

Action being initiated against child sex tourism

In 2005, an international level consultation, 'Conditions and Countermeasures to Overseas Child and Youth Sex Tourism by Korean Men' was held in Seoul. Several ECPAT groups from Southeast Asian countries spoke of the increasing number of Koreans visiting to exploit children.

To address the problem, the Naeil Women's Centre for Youth (the ECPAT affiliate group in the country), took the lead in launching the *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*, also in 2005. Only a few travel agencies have adopted the Code to date, and a major media campaign is being planned to further promote it, supported by the Ministry of Culture and Tourism. Following the launch, the National Youth Commission asked the Naeil Women's Centre to conduct a survey on child sex tourism involving Korean tourists in Cambodia, the Philippines and Thailand.

The Illegal and Harmful Contents Report Centre – an independent legal institution that deliberates on reported illegal and harmful Internet content – cooperates with the National Police Agency, National Youth Commission, NGOs, Internet service providers and foreign organisations.²⁰ The Centre also supports the Cyber-Patrol Community, an Internet monitoring system operated by volunteers, and created the *Internet 119* homepage to deal with illegal and harmful content circulating on the web. A similar reporting centre is the Cyber Terror Response Centre, which monitors crimes committed in cyberspace.

The Ministry of Information and Communication ran a pan-national campaign, ‘e-Clean Korea’, in 2003, and again in 2004.²¹ The campaign promoted the use of anti-spam software provided by the Ministry, and received enthusiastic support from various media and religious groups, as well as from the Ministry of Education and the South Korea Information Culture Promotion Centre. In addition, the National Police Agency and law enforcement agencies aim to strengthen their capacity to crack down on sex trade activities over the Internet, including strict surveillance of online chatrooms.²²

Limited research on CSEC

In the area of research on CSEC no statistics on the prostitution of children or on prostitution in general are available (although it is estimated that up to a third of those involved in prostitution in South Korea are juveniles). Saeumtuh, a human rights organisation assisting victims of the sex trade in the Kyungki do area, conducted a survey in 2002: of the 17 respondents, 12 were aged 13 to 18.²³

In 2005, a survey on sexual exploitation of girl minors in Kiribati by Korean seafarers was conducted by the National Youth Commission and the Naeil Women’s Centre for Youth. Following an agreement between Korea and Kiribati in 1980, Korean seafarers are allowed to fish in Kiribati territory. Female Kiribati youth wait for Korean seafarers at bars or clubs near the ports and on street corners frequented by the seafarers. After meeting up with the Korean seafarers, they take a small boat out to the offshore fishing vessels. The girls receive money or goods (fish, cigarettes, clothes etc) as remuneration for the exploitative activities. The average age of the girls ranges from 16 to 20; 7 per cent of them are under 18 years of age; and most of them come from poor families and have completed only elementary education. This exploitative sexual activity is acknowledged by Kiribati residents as ‘*te core corea*’. The term refers to both Korean seafarers and Kiribati girls who engage in this form of sexual exploitation. Recommendations to address the problem identified in the survey included the production of an educational programme for seafarers on children’s rights and on sexually transmitted infections, the strengthening of laws to bring seafarer abusers to trial, and the development of support systems such as medical treatment and education for ‘*core corea*’ youth.²⁴ Support programmes for children and female victims in Kiribati are currently being developed.

PROTECTION

South Korea ratified the *Convention on the Rights of the Child* in 1991, the *Optional Protocol on the sale of children, child prostitution and child pornography (Optional Protocol)* in 2000 and *ILO Convention No. 182* in 2001. The Government signed the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)* in 2000, but has not ratified it to date.

Legislation

Considerable progress has been made in the last few years in terms of legislation to protect children from commercial sexual exploitation. In 2000, Korea adopted the *Act on Protecting Youth from Sexual Exploitation* which stipulated stricter punishment for crimes related to the commercial sexual exploitation of children and the disclosure of offenders' personal information.²⁵ In 2004 the Government enacted the *Prevention of Prostitution and Protection of its Victims Act* and the *Punishment of Soliciting Prostitution Act* to strengthen punishment of activities related to procurement of prostitutes and to protect the rights of victims. These laws treat women and children involved in prostitution as victims who need protection and rehabilitation.²⁶

Prostitution of Children

The Republic of Korea has inconsistent legislation on prostitution of children, and must revise its laws before it meets international standards to protect children from being prostituted. South Korean law prohibits and punishes those who have sex with a child for remuneration, including the promise of remuneration. The law also punishes those who facilitate, procure, employ or recruit for purposes of prostitution. It is unclear, however, whether having sex with a child includes all of the activities prohibited under the *Optional Protocol*, such as sexual touching. Unfortunately, South Korea has also enacted legislation that undermines these provisions: the *Prevention of Prostitution and Protection of its Victims Act* treats victims of prostitution as offenders, although this does not occur in practice.

The Republic of Korea has several – sometimes conflicting – laws that can be used to prosecute those who promote and take part in child prostitution. According to the Government's responses to the UN Violence Study questionnaire, Article 242 of the *Penal*

Code prohibits facilitating the prostitution of minors for profit, while the *Child Welfare Act*, Article 29, prohibits facilitating the prostitution of children.²⁷ The 1999 *Juvenile Protection Act* can be construed to prohibit child prostitution to the extent that it prohibits juveniles from, among other things: exposing their sexual organs, performing lascivious acts, or luring customers on the street for the purpose of making profits.²⁸

In addition, the 2000 *Act on the Protection of Juveniles' Rights in Sex* punishes those who have sex with a child in return for money, valuables, other economic or official advantages, or the promise of proprietary gains.²⁹ These forms of remuneration can be made to the child, the person who facilitates the prostitution, or the child's guardian.³⁰ This law also punishes those who facilitate child prostitution, such as those who operate a "prostitution brokerage" or provide a place for "teenage" prostitution to occur.³¹

In 2004, the Republic of Korea established the *Act on the Punishment of Procuring Prostitution and Associated Acts*. This law defines prostitution as sexual intercourse or quasi-sexual intercourse (by means of part of the body including the oral cavity and/or anus, or with a sexual apparatus) in exchange for money, valuables or property benefits, or the promise of these things.³² The law prohibits prostitution, procuring prostitution and associated acts, employing and/or recruiting another person for purposes of prostitution, or advertising activities related to or to an agency of prostitution.³³ The law specifically states that victims of prostitution are not subject to punishment,³⁴ and defines victims as persons forced to sell sex, persons who sell sex under the influence of drugs, juveniles and persons with mental or serious disabilities, and persons trafficked for purposes of prostitution.³⁵

The law contains a wide range of punishments for violations; these include buying or selling sex, which may be punished with up to one year's imprisonment or a fine, detention or minor fine of up to KRW (Korean won) 3,000,000 (approximately US\$3,200).³⁶ Forcing another person to sell sex may be punished with up to 10 years' imprisonment or a fine of up to KRW100,000,000 (US\$107,000),³⁷ while forcing a juvenile to sell sex may be punished with a definite term of imprisonment of at least one year.³⁸ Forcing prostitution by confining a person may be punished with a definite term of imprisonment of at least three years.³⁹ There is also a range of punishments for procuring or recruiting a person into prostitution. Procuring, recruiting or facilitating prostitution may be punished with up to three years' imprisonment or a fine of up to KRW30,000,000 (US\$32,000).⁴⁰ Profiting from or procuring, recruiting or facilitating prostitution as a business is subject to an increased punishment of up to seven years' imprisonment or a fine of up to KRW70,000,000 (US\$74,800).⁴¹ Similarly, advertising for purposes of prostitution may be punished with

up to three years' imprisonment or a fine of up to KRW30,000,000 (US\$32,000).⁴² Acts related to advertising for prostitution are also prohibited and punished under the Republic of Korea's *Criminal Code*, Article 245.

In contrast, however, South Korea enacted legislation that contradicts the *Act on the Punishment of Procuring Prostitution and Associated Acts*. The *Prevention of Prostitution and Protection of its Victims Act* defines prostitution as the act of having sex with another person by receiving or promising to receive any money, valuables or property benefits,⁴³ and punishes the act of prostitution.⁴⁴ Clients of prostitutes and prostitutes themselves may be punished by up to one year's imprisonment, a fine of up to KRW3,000,000 (US\$3,200), penal detention or a minor fine.⁴⁵ A judge may place "offenders" under 20 years of age in a facility for "proper guidance and protection," instead of in protective detention.⁴⁶ Nevertheless, this law treats victims forced into prostitute as offenders, and, rather than focusing on the violation of human rights inherent in prostitution, treats prostitution as an affront to public morality.⁴⁷

This law also prohibits: inviting, seducing, helping or forcing someone to prostitute or be a customer of a prostitute; providing a place for prostitution; or asking, receiving or promising to receive money, valuables or other property benefits from a prostitute or the customer.⁴⁸ Forcing a person to prostitute by means of assault, threat, deceptive scheme or a supervisory or protective relationship may be punished with up to five years' imprisonment or a fine of up to KRW15,000,000 (US\$16,000); punishment increases to up to seven years' imprisonment or a fine of up to KRW20,000,000 (US\$21,400) where a person receives, requests or promises all or a portion of the charges for prostitution in these circumstances; and punishment increases further to up to ten years' imprisonment where a person under 20 years of age is involved.⁴⁹

Providing a place for or facilitating prostitution as a business may be punished with up to five years' imprisonment or a fine of up to KRW15,000,000 (US\$16,000),⁵⁰ while seducing or inviting someone to prostitute or be a customer of a prostitute as a business, promising to provide a place for prostitution, or helping someone to prostitute, may be punished with up to three years' imprisonment or a fine of up to KRW10,000,000 (US\$10,700).⁵¹ Finally, seducing or inviting a person for prostitution, or being a customer of a prostitute, may be punished with up to two years' imprisonment or a fine of up to KRW5,000,000 (US\$5,350).⁵²

In addition to these laws, South Korea also has extensive legislation to prevent prostitution and provide support and assistance to prostituted persons. The *Prevention of Prostitution and Protection of its Victims Act* requires state and local governments to take measures to prevent prostitution and establish assistance facilities for prostituted persons. Similarly, the *Act on the Punishment of Sexual Crimes and Protection of Victims Thereof* establishes sexual assault counselling centres and protective facilities for victims of sexual crimes.

New legislation has strong impact on society's views and law enforcement

The enactment of the 2004 *Prevention of Prostitution and Protection of its Victims Act* and the *Punishment of Soliciting Prostitution Act* generated public debate and changes in perception towards women involved in prostitution. The acts contributed to civil society's understanding that trafficking in human beings for sexual purposes was not an issue involving perpetrators and victims only, but a human rights issue affecting the nation as a whole. Related issues began to be discussed for the first time in South Korea.⁵³ Furthermore, when the acts were implemented there was a strong crackdown and criminals were prosecuted. The number of establishments in red-light districts was reduced by more than 30 per cent,⁵⁴ and a survey conducted by the Ministry of Gender Equality and Family showed that, of 1 181 respondents, 86 per cent of male respondents indicated that they bought sex services less frequently after the acts were enforced.⁵⁵

Trafficking in Children for Sexual Purposes

The Republic of Korea's failure to ratify the *Trafficking Protocol* is a significant gap in its protection of children against trafficking for sexual purposes, but legislation that defines and prohibits trafficking does exist. Acts that constitute trafficking under South Korean law include transferring, receiving, recruiting, transporting or harbouring a person for purposes of exploitation, but these acts must be carried out in conjunction with a deceptive scheme, the use of force or other form of coercion. Even in its provisions specific to children, under South Korean law 'trafficking' involves the provision or promise of money or other remuneration. This contrasts with the international standard, in which trafficking is defined as transferring, transporting, receiving, recruiting or harbouring, regardless of the use of deceptive means, force, coercion or remuneration.

The 2004 *Act on the Punishment of Procuring Prostitution and Associated Acts* also defines and prohibits trafficking. Trafficking is defined as transferring, receiving, recruiting, transporting or harbouring a person by means of a deceptive scheme, force or other form of coercion

for the purpose of producing sexual photographs or other virtual communication media, forcing a person to sell sex, or forcing a person to perform an obscene act.⁵⁶ With respect to juveniles, it is illegal to transfer a juvenile who is subject to control and management to another person by providing or promising money, valuables or property benefits.⁵⁷ The law prohibits human trafficking for purposes of prostitution,⁵⁸ and punishment may be a definite term of imprisonment for at least three years.⁵⁹ This law also provides for protection and assistance for victims of trafficking: for example, they may be eligible for compensation, and foreign women victims of trafficking are not subject to deportation.⁶⁰

The sale or trafficking of children is also punishable by Article 287 of the *Penal Code* and Article 29 of the *Child Welfare Act*.⁶¹

Child Pornography

The Republic of Korea has enacted legislation that addresses, in some part, child pornography, but its provisions should be strengthened to better protect children, for example, Korean law could be strengthened to prohibit simulated pornographic images of children, as well as audio or other types of materials. In addition, Korean law could be enhanced by punishing the mere possession of child pornography, and not only possession for purposes of profit.

The Republic of Korea recently ratified the *Act on Protection of Youth from Sexual Exploitation*. This law defines “youth exploited obscene materials” as forms of pictures, such as film images, video, computer, or other communications media “with the appearance of youth,” and including sexual acts.⁶² This law prohibits the production, import or export of obscene materials that exploit youth, and punishment may be at least five years’ imprisonment. Displaying, “aimlessly showing,” or selling, renting, distributing, possessing, or transporting obscene materials that exploit youth for profit may be punished with up to seven years’ imprisonment, while displaying or aimlessly showing such materials may be punished with up to three years’ imprisonment or a fine of up to KRW20,000,000 (US\$21,400).⁶³ Facilitating the production of obscene materials that exploit youth may be punished with between one and ten years’ imprisonment.⁶⁴ The law further punishes trading youth, trading or transferring youth overseas, or trading or transferring youth residing overseas domestically, knowing that a youth may be subjected to an act of commercial sex and the production of obscene materials that exploit youth: these acts may be punished with between five years’ and life imprisonment.⁶⁵

The Republic of Korea has additional legislation that may be used to prosecute cases involving child pornography, but these are generally obscenity laws rather than child pornography laws. The *Act on the Punishment of Sexual Crimes and Protection of Victims Thereof* makes it illegal to produce words, sounds, writings, drawings, pictures, images or anything that may cause sexual shame or aversion, that are sent to another person by telephone, mail, computer or other communication medium with the intention of provoking or satisfying that person's sexual appetite. Violators may be punished with up to one year's imprisonment, or a fine of up to KRW 3,000,000 (US\$3,200).⁶⁶ This law also prohibits the taking of pictures with a camera or other apparatus of another person's body, against their will, and that are liable to cause sexual stimulus or shame; punishment for violations may be up to five years' imprisonment or up to KRW 10,000,000 (US\$10,700).⁶⁷ Finally, the *Act on the Protection of Juveniles' Rights in Sex* regulates the manufacture of teenage pornography.⁶⁸

Extraterritorial Legislation

The Republic of Korea does not have distinct extraterritorial legislation.

Child Protection Units

The law of the Republic of Korea contains several provisions to protect and assist victims of commercial sexual exploitation. These include protecting the identity and privacy of victims of sexual crimes, closing trials to the public in cases involving sexual crimes, providing victims with assistance to provide their testimony in cases involving sexual crimes, and taking steps to preserve evidence in such cases.⁶⁹ In cases involving children under 13 years of age, statements may be videotaped and used as evidence.⁷⁰

Support Services for Children

Child victims of commercial sexual exploitation are obliged to participate in a recovery and rehabilitation programme currently being piloted by the Government, which means that they are required to remain in a shelter or selected institution for over four weeks to undergo ‘corrective education’. While such a programme is well intentioned, it remains to be seen whether the fact that attendance is compulsory, will have a negative impact on those children who live with their families but will face institutionalisation for over a month. In addition, a few support programmes run by NGOs, target youths who have been sexually abused and exploited. Components of such programmes typically include self-reliance education, psychological treatment, mental-health support, tutoring for high school diploma exams, tattoo-removal treatment and support to acquire an ID card.

The 2004 *Prevention of Prostitution and Protection of its Victims Act* and the *Punishment of Soliciting Prostitution Act* clearly specified the role of the Government in providing assistance to women and children escaping prostitution. Administrative measures at each stage of the rehabilitation process were defined, and the necessary funds were provided. Counselling centres have been established in all metropolitan-level regions (excluding Gangwon Province),

and support – such as the provision of vocational training programmes and help to access education, start up a business or search for housing or employment – is also available. Outreach programmes for women and children in red-light districts are also in operation, providing individual and group counselling services, medical and legal assistance, vocational education and a fixed amount of monthly financial support to help them escape prostitution.⁷¹

Training Law Enforcement Personnel

Local groups have reported that the *Act on Protecting Youth from Sexual Exploitation* is not being properly enforced. Law enforcers seem to view sexually exploited children as criminals rather than victims of severe violations of their basic rights. Law enforcement personnel should be sensitised to change their negative perceptions and enforce the Act properly.



PRIORITY ACTIONS REQUIRED

- The various governmental policies and plans related to CSEC need to be unified into a single national plan of action against the commercial sexual exploitation of children. It is essential that such an NPA includes provisions to tackle the commercial sexual exploitation of children that takes place in cyberspace.
- Given the overlaps and inconsistency in its various provisions that apply to child prostitution, South Korea should revise its current legislation to develop one streamlined law that conforms to international standards.
- South Korea must ratify the *Trafficking Protocol*, and, in order to comply with the *Trafficking Protocol*, Korean law must be reviewed so that all the acts that constitute child trafficking are criminalised, regardless of the use of a deceptive scheme, force, or other form of coercion, and regardless of the provision of money or other remuneration.
- Korean law should be amended to prohibit simulated child pornographic images, audio or other media in which child pornographic images may be created. The mere possession of child pornography must also be criminalised.
- A separate rehabilitation programme should be provided for children who have families, so that they do not need to be institutionalised, unless their families are unable to provide suitable care.

- ✎ More drop-in centres and outreach programmes must be provided to runaway children and youth. Social workers should be trained to be able to support runaway children in terms of preventing their engagement in commercial sexual exploitation.
- ✎ Training of law enforcement agencies in CSEC and child-friendly approaches is urgently needed in order to foster understanding that children found engaging in commercial sexual activities are victims and not criminals, and to improve the enforcement of the *Act on Protecting Youth from Sexual Exploitation*.
- ✎ Child rights activists and social workers need capacity building in lobbying and advocacy, gender issues and the particular features of commercial sexual exploitation of children: this would foster a better understanding of the issues among these key stakeholders and, it is hoped, would lead them to engage and collaborate more actively on pressing topics.
- ✎ Research on trafficking in children for sexual purposes such as that which is undertaken in the Philippines is highly recommended to ascertain the magnitude and characteristics of the problem in the Republic of Korea.

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