COUNTRY OVERVIEW

A report on the scale, scope and context of the sexual exploitation of children
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ASEAN</td>
<td>Association of South East Asian Nations</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<tr>
<td>CEFM</td>
<td>Child, early and forced marriage</td>
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<tr>
<td>CMR</td>
<td>Country Monitoring Report</td>
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<tr>
<td>CSAM/CSEM</td>
<td>Child sexual abuse / exploitation material</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>CSEC</td>
<td>Commercial sexual exploitation of children</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>ICSE DB</td>
<td>International Child Sexual Exploitation Database</td>
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<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
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<td>INTERPOL</td>
<td>International Criminal Police Organisation</td>
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<td>IOM</td>
<td>International Organisation for Migration</td>
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<td>KCSC</td>
<td>Korea Communications Standards Commission</td>
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<td>KOCCONET</td>
<td>Korea Council of Children’s Organisation</td>
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<tr>
<td>MGEF</td>
<td>Ministry of Gender Equality and Family</td>
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<tr>
<td>NPA</td>
<td>National Police Agency</td>
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<td>NGO</td>
<td>Non-governmental organisation</td>
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<tr>
<td>OCSE</td>
<td>Online child sexual exploitation</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>SAIEVAC</td>
<td>South Asia Initiative to End Violence Against Children</td>
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<td>SDGs</td>
<td>Sustainable Development Goals</td>
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<td>SEC</td>
<td>Sexual exploitation of children</td>
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<td>SECTT</td>
<td>Sexual exploitation of children in travel and tourism</td>
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<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
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<td>USFK</td>
<td>United States Forces Korea</td>
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<tr>
<td>UNWTO</td>
<td>United Nations’ World Tourism Organisation</td>
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Over a decade since the publication of its first Country Monitoring Reports (CMRs) on Sexual Exploitation of Children, ECPAT International is sharpening its monitoring efforts in order to better address and represent the evolving incidence and existence of the sexual exploitation of children in the world today.

Recent years have seen some unprecedented opportunities that have embedded the child’s right to protection from sexual exploitation more deeply into the global agenda, no more so than the global mandate to eliminate the sexual exploitation of children (SEC) enshrined in the Sustainable Development Goals (SDGs) adopted by world leaders in 2015. ECPAT International’s decision to transform its Country Monitoring Reports into more concise and targeted ECPAT Country Overviews on SEC will ensure a more effective tool for advocacy at all levels and monitoring, including commitments made in the SDGs to end violence against children in all its different forms by 2030.

The report’s structure aims at providing a comprehensive baseline of information on all manifestations of SEC in a country and an assessment of achievements and challenges in implementing counteractions - including the participation of children themselves - to eliminate SEC. They also suggest concrete priority actions urgently needed to proactively advance the national fight against SEC and enable the monitoring of the implementation of international instruments on child rights related to sexual exploitation that have been ratified by the State.

Furthermore, the ECPAT Country Overviews provide well-organised information and research, which can be used in preparing Alternative Reports and Additional Submissions to the Committee on the Rights of the Child and the Human Rights Council.

The preparation of this report is based on a review of the literature available on sexual exploitation. Drafts are shared with ECPAT members, relevant organisations, partners and local experts working on the ground who review the content and supplement the information with other local sources and analysis. ECPAT International greatly relies on the contributions of all those involved in producing these reports and would like to express its profound appreciation for their invaluable inputs.

This particular report addresses the different forms of sexual exploitation of children in South Korea. Children in South Korea are vulnerable to various forms of sexual exploitation including exploitation in prostitution, and online. Furthermore, South Korea is also a destination country for the trafficking of children for sexual purposes and there are cases of sexual exploitation of children in travel and tourism. While South Korea has sustained its efforts to address the issue of access to justice, it needs to improve child victims’ and survivors’ participation. It is worth mentioning that South Korea has recently submitted a Voluntary National Review Report on its progress and implementation towards achieving the Sustainable Development Goals.
The Republic of Korea (hereinafter South Korea) is a presidential democracy and is geographically located in East Asia. Children (persons under the age of 18 as defined by domestic law) represent around 17% of the population. Despite the devastation of the Korean War, South Korea is now the 11th largest economy in the world. Even though children generally enjoy high living standards, numerous factors may lead to their sexual exploitation.

South Korea accomplished a spectacular economic development and turned into a highly consumer-driven country. Children are heavily affected by consumerism and the pressure of money, which makes them vulnerable to sexual exploitation in prostitution and online child sexual exploitation (OCSE). Child sexual abuse/exploitation materials (CSAM/CSEM) are produced not only by adults, but also self-produced by children who are very familiar with high technology. Although it is making efforts to eliminate the sale and trafficking of children for sexual purposes, South Korea is still considered a source, transit and destination country. In line with such a trend, the sexual exploitation of children in travel and tourism (SECTT) is a considerable problem, as South Korean nationals are one of the main sources of demand for SECTT in Asia. Furthermore, although cases of child early and forced marriages (CEFM) are almost non-existent in South Korea, some cases of international child marriage brokers have been revealed in recent years.

The South Korean government takes the eradication of SEC very seriously with strict and harsh punishments. It enacted the Act on the Protection of Children and Juveniles against Sexual Abuse to not only penalise SEC in prostitution, but also OCSE. Although it enacted the Act on the Punishment of Arrangement of Commercial Sex Acts to criminalise the sale and trafficking of children for sexual purposes, South Korea does not have any explicit legislation regarding SECTT.

At the national level, several pivotal bodies coordinate and design both international and national policies on children and youth, such as the Ministry of Health and Welfare, the Ministry of Gender Equality and Family Affairs (MGEF), the Child Policy Coordination Committee and the National Human Rights Commissions. They adopted and formulated several National Plans of Action and Measures, which are rather broad, yet include SEC-related policies. Unfortunately, there is currently no comprehensive strategy, which solely focuses on SEC.

In terms of preventive measures, the government has established various programmes and entities. The Korea Communications Standards Commission (KCSC) accesses and orders the correction or deletion of harmful materials online for children and juveniles. Recognising that South Korea is a source of demand for SECTT, the police and the prosecutors organised a joint investigation team dispatched to many East Asian countries.

Several national laws and bodies allow children’s access to justice. The Civil Act, the Civil Procedure Act, the Child Welfare Act, and the National Human Rights Commission uphold children’s right to justice. However, despite such options, there is not yet a specialised juvenile court in place. Fortunately though, there are several child-sensitive procedures. Unfortunately, it appears that child victims are often denied the status of
victim and are frequently treated as offenders. In South Korea, recovery and reintegration programmes are provided for children through many institutions, such as the Korea Youth Counselling and Welfare Institute, the Sunflower Children Centres, and the Dream Centre. The Civil Act and the Crime Victim Protection Act both provide compensation for victims of criminal offences, but neither are specifically targeted towards child victims of SEC.

Children’s participation in the country is integrated into many platforms and programmes. However, the latter mostly encourage the participation of children in general and not that of child victims and survivors in particular, which is something that should be addressed.
COUNTRY OVERVIEW AND SPECIFIC VULNERABILITIES LEADING TO THE SEXUAL EXPLOITATION OF CHILDREN

South Korea is an East Asian country with a population of over 50 million inhabitants, out of which 17% are children. A presidential democracy, South Korea is a homogeneous country as nearly all of its population is of Korean origin. Accordingly, its main language is Korean. Korea is not a religious country, as approximately 57% of the population does not have a stated religion. Of those who are religious, various forms of Christianity are the most common.

According to the Child Welfare Act, a child is a person under 18. However, this definition is not consistent in national legislation, probably as a result of the unique Korean age system. The age of marriage is 18, but minors can get married with parental or guardian consent. The age of marriage is 18, but minors can get married with parental or guardian consent.

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2 Ibid.
4 Ibid.
6 Under the Juvenile Act, a juvenile is a person under 19. Under the Civil Act, age of majority is set at 19. Under the Single Parent Family Support Act, a child is a person under 22, if enrolled in school. Under the same Act, an ‘adolescent’ single parent is someone under 24.
7 Generally, South Korea uses a chronological age system, which is two years ahead of the international age system. A baby is one-year-old upon birth and gains one year on the New Year’s Day. For example, a baby is one-year-old when born on December 31 and will reach two years old the day after. Therefore, every person born on the same calendar year has the same age. The international age system is referred to ‘man’ age. (20 years old in Korean age is equivalent to ‘man’ 18 years old in international age).
9 Ibid. Article 808 (Marriage Requiring Consent).
consent is 13, one of the lowest in the world, which means that if a child over the age of 13 claims to have had a sexual activity with an adult in a consensual situation, there is no clear set standard for regulation, and the punishment is up to judges’ discretion. Hence, in 2017, the Supreme Court found a 49-year-old man ‘not guilty’ of impregnating a 15-year-old girl, because the victim claimed that she loved the offender.

In the 1960s, following the Korean War, South Korea was one of the poorest countries in the world. However, in just over one generation, it managed to become one of the wealthiest—a phenomenon known as the ‘Miracle on the Han River’. In 2016, the county was the 11th biggest economy with a GDP per capita of $37,700 and in 2015, its human development index ranked 18th in the world.

The country’s speedy development did not necessarily have a positive impact on children however. The government mainly focused its expenditure on state-building and development, and ultimately spent less than 1.5% of the country’s GDP on Family and Child Welfare Policy.15 Moreover, a study conducted by the Korean Ministry of Health, Welfare and Family Affairs indicated that children in Korea are the least happy among OECD members.17 According to Statistics Korea, the leading cause of death among youth (9-24 years old) from 2007 to 2015 (latest available data) was intentional self-harm and suicide.18

South Korea is well-known for its advanced education system. In 2016, primary school enrolment rates reached 98%.19 However, the school environment in Korea can be fierce and the objective for many students is to enter a good university in order to obtain a ‘decent paying job’. There is a popular saying in Korea that says, “If you sleep three hours, you may go to top universities, if you sleep four hours, you end up going to bad universities, and if you sleep more than five hours, forget about getting into any”.20 The stress and pressure that Korean children experience may be a factor increasing their vulnerability to sexual exploitation.

However, endless competition and consumerism are not the only potential factors leading to the sexual exploitation of children. Other factors include violence in school, such as bullying and sexual harassment. School bullying in South Korea has a long history.21 The causes of bullying in school stem from the competitive environment and the culture of collectivism, with many cases gaining the public’s attention in recent years. What is problematic is that a vast number of bullying

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10 Government of Korea (1953), “Criminal Act”, Article 305 (Sexual Intercourse or Indecent Acts with Minor), accessed 18 October 2017, https://elaw.klri.re.kr/kor_service/lawView.do?seq=40950&lang=ENG. A petition to increase the age of consent from 13 to 16 was submitted in 2012 to the National Assembly, but it was repealed.


16 The OECD is an inter-governmental organisation with an official United Nations Observer status, established in 1960 and promoting economic development and world trade.


cases are also linked to sexual harassment.23 The School Violence Measures Committee of the Ministry of Education of Korea conducted a research on the phenomenon, and found that the number of reported cases of sexual harassment ‘between classmates’, tripled from 642 in 2012, to 1,842 in 2015. The research also found that 70.7% of school-based sexual harassment is from classmates.24 As the research suggests, South Korean children may become more exposed and familiar to sexual violence, which could then lead to them being sexually exploited. While not necessarily transactional, new forms of image-based sexual harassment, including image-based ‘sexual extortion’ could also be viewed as sexual exploitation.

South Korea is a very conservative and Confucian country. However, the family structure is changing in a way that profoundly affects children. Statistics indicated 107,328 instances of divorce in 2016, and 52,800 cases in the first half of 2017.25 While divorce does not always negatively affect children, changing family structures can lead to increased tension between parents and children, with evidence suggesting children may be more prone to run away from their homes.26 Once children stop receiving support or protection from their home and school, they may become targets for sexual exploitation. Indeed, local media reports increasing number of runaway youths may be exploited in the sex trade.27 A survey conducted in 2016 by the National Human Rights Commission of the Republic of Korea of young victims, shelter workers, police and juvenile justice workers indicated that many children who run away end up in the sex trade.28 In 2017, the Seoul government, with the help of a special report team from Sky Daily, discovered that more runaway children are entering the sex trade as a means of survival.29


EXPLOITATION OF CHILDREN IN PROSTITUTION

Article 2 (b) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) defines ‘child prostitution’ as “the use of a child in sexual activities for remuneration or any other form of consideration”.31

According to Target 16.2 of the Sustainable Development Goals (SDGs), all types of sexual exploitation should be eradicated.

All forms of prostitution are illegal in Korea. Upon the enactment of the Prevention of Prostitution Act in 2004,33 there was a massive crackdown on brothels and the industry quickly went underground, which made it more difficult to eradicate.34 Nowadays, it is presumed to have spread into a variety of forms and establishments, such as bars, karaoke, barbershop, massage parlors, salons, kiss rooms, daedal rooms,35 window rooms,36 sitting cushion rooms,37 ear-picking rooms,38 officetels,39 delivery, inn, love motels, wonjo gyoje,40 etc.41

The most common manifestation of the exploitation of children in prostitution is found in jogeon mannam. This is a newly coined term that roughly translates to ‘dating on a condition’. According to a survey of 198 respondents who had run away or been involved in the sex trade, 61.8%...

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32 Target 16.2: “End abuse, exploitation, trafficking and all forms of violence against and torture of children”.

33 The Act is now repealed by the Act on the Punishment of Arrangement of Commercial Sex Acts, etc.


35 ‘Daeddal’ roughly means being masturbated by someone else.

36 ‘Window room’ is an establishment somewhat similar to the ones found in red light districts, where customers pick up girls standing behind glass windows.

37 A ‘sitting cushion room’ is where a customer sits with a prostitute and receives oral sex.

38 An ‘ear-picking room’, as the name implies, is where a customer’s ears are picked usually by topless girls.

39 Officetel is an establishment set up as a private studio apartment where prostitutes treat customers as their boyfriends and offer sexual activities.

40 Wonjo gyoje or compensated dating originally comes from Japan’s enjo kasai. The practice involves older men offering money or equivalent items to young girls in return for companionship.

had engaged in *jogeon mannam*. They are mostly arranged through online networking websites or chat applications. 87.9% of children who have engaged in *jogeon mannam* received money in return and 39.3% received items they desired. The same survey revealed that 84.4% of children who experienced sexual exploitation also had runaway experiences. Furthermore, 48.6% replied that they entered the sex trade as a means to earn money for survival. However, cultural norms prevent them from getting proper protection, as children do not want others to know about it. They believe they will be punished for their actions, even though Korean laws do not take punitive approaches against minors involved in prostitution.

According to the Korean National Police Agency, in 2016, 77 cases of juvenile boys (i.e. under the age of 19) and 1,811 cases of juvenile girls being raped were reported. These included 11 girls younger than six being raped. Furthermore, 402 juvenile boys and 4,651 juvenile girls were victims of forced indecent acts with 22 boys and 132 girls being younger than six. Recent statistics on the number of arrests regarding sex crimes against children and juveniles are summarised in the table below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Rape of juveniles</th>
<th>Rape of children under 13</th>
<th>Forcing juvenile to do indecent acts</th>
<th>Forcing children below 13 to do indecent acts</th>
<th>Juvenile forced prostitution</th>
<th>Purchasing children for sex</th>
<th>Selling children for sex</th>
<th>Intermediaries involved in exploitation of children in prostitution</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>722</td>
<td>77</td>
<td>1,624</td>
<td>734</td>
<td>49</td>
<td>211</td>
<td>11</td>
<td>66</td>
</tr>
<tr>
<td>2015</td>
<td>677</td>
<td>82</td>
<td>1,453</td>
<td>770</td>
<td>59</td>
<td>169</td>
<td>10</td>
<td>59</td>
</tr>
<tr>
<td>2016</td>
<td>639</td>
<td>87</td>
<td>1,515</td>
<td>737</td>
<td>63</td>
<td>239</td>
<td>6</td>
<td>87</td>
</tr>
</tbody>
</table>

Sources from the National Police Agency

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43 Ibid.
44 Ibid.
45 Ibid.
ONLINE CHILD SEXUAL EXPLOITATION (OCSE)

Online child sexual exploitation (OCSE) can include child sexual abuse material (CSAM), live streaming of child sexual abuse, online grooming of children for sexual purposes, sexual extortion of children and various CSAM-related conducts (production, distribution, downloading). Article 2 (c) of the OPSC defines ‘child pornography’ as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”.

South Korea is known as a world leader in the Internet industry, with nearly universal Internet access, and the fastest Internet speed in the world. As the World Bank and governmental data show, 83% of the population lives in urban areas and has fibre-optic cables dating back from the 90s. 99.5% of households have access to the Internet. In 2017, there were 122.651 mobile phones per 100 population. A study in 2016 found that 72% of children aged 11 or 12 own a smartphone, and 60.8% of children under nine are using smartphones. National statistics also indicate that 27.6% of middle and high school children were accessing harmful materials.

In 2017, according to the report by the Ministry of Science and ICT, 100% of children in South Korea had access to the Internet. A worrying trend is the involvement of children in uploading and distributing CSAM/CSEM. In 2014, the Seoul

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51 ECPAT prefers the terms ‘child sexual exploitation material’ or ‘child sexual abuse material’, but in a legal context still uses ‘child pornography’ in line with the recently widely adopted Terminology Guidelines, 40.
53 OPSC, Article 2(c).
60 The Ministry of Science and ICT (2017), “2016 Report on Internet Usage”, p 28, accessed 24 October 2017, http://www.msit.go.kr/cms/www/m_con/stats/_icsFiles/afheldfile/2017/03/16/2016%20%EC%9D%88%ED%84%B8%EB%B4%B7%EC%9D%84%EC%9A%A9%EC%9B%A4%ED%83%9C%EC%A1%B0%EC%82%AC%20%EC%B5%9C%EC%A2%85%EB%B3%B4%EA%B3%A0%EC%84%9C.pdf.
Metropolitan Agency reported they had identified 117 Korean perpetrators who had uploaded or distributed CSAM/CSEM. 51% of those perpetrators were children and 28% were primary school children.63

According to the National Policy Agency (NPA), opened police cases of the production and possession of CSAM/CSEM dramatically increased nationally from 693 in 2014, to 1,198 in 2016,64 child victims numbered as many as 1,973 in 2016 alone,65 and 35% of all obscene cybercrimes were related to OCSE.66 In 2017, the owner of one of the biggest websites containing CSAM/CSEM in South Korea was arrested. The website had its server in the United States, and uploaded over 460,000 CSAM/CSEM for 1.21 million members.67

In 2017, a South Korean was imprisoned for bringing CSAM/CSEM into Canada68 and the NPA of Japan arrested four South Korean nationals who sold CSAM/CSEM, such as DVDs, online.69 The phenomenon is thus a huge problem in the country and children are being exploited online and/or exposed to CSAM/CSEM. Furthermore, according to a survey on sex trade conducted by the Minister of Gender Equality and Family, nearly 75% of adolescent respondents met perpetrators via online methods.70

Interestingly, the country is also notorious for media/Internet censorship. In 2017, it was ranked 63 out of 180 countries for press freedom.71 The strict censorship can be interpreted positively as it attempts to regulate, monitor and track down harmful content, including CSAM/CSEM.72 However, nowadays in South Korea, an online lawless zone known as ‘Deep Web’73 can be accessed, with numerous child sexual abuse materials. The Cybercrime Division explained that the IP address detours three times, which makes it almost impossible to investigate online CSAM/CSEM in the deep web.74

Online chatting and social network applications, like ‘Kakao Talk’, are reportedly used in South Korea to circulate CSAM/CSEM online. In 2015, the former president of Kakao Talk was indicted on the charge of not taking sufficient measures to prevent the circulation of CSAM/CSEM.75 This is of particular concern because 99.2% of children are using Kakao Talk as a mobile messenger in South Korea.76

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73 This website cannot be accessed through Internet Explorer nor Chrome, but with specific browser.


Other social network applications used to share illegal content are Tistory, Naver Blogs, Twitter, Line, Ranchat and Tumblr. In 2016, 58% (47,480 cases) of obscene and sexual contents blocked or deleted by the Korean Communications Standards Commission were from Tumblr. The latter is fast becoming a ‘safe haven’ for the exchange, distribution and viewing of CSAM/CSEM in South Korea since it does not ask for any adult verification, and does not contain detailed user information. The Commission has officially sent an email to Tumblr in August 2017 to request participation in a “self-regulating coordination system”. However, Tumblr rejected the request and stated that “Tumblr is not regulated by Korea’s law system, nor by its jurisdiction”.77

Other worrisome trends are sexual extortion and revenge pornography. Sexual extortion, also called ‘sextortion’, is the blackmailing of a person with self-generated images, in order to extort sexual favours, money, or other benefits under the threat of sharing the material without the person’s consent.79 Revenge pornography refers to posting/distributing sexually explicit videos/images of an individual online, without his/her consent, as a way of harassing, blackmailing and defaming him/her.80 The government recently cracked down on online sex crimes, and declared that ‘revenge porn’ offenders should be subjected to tougher punishments.81 It was reported by the Chief Executive Officer of Santa Cruise82 that most offenders in South Korea are teenage boys.83

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78 Ibid.
79 Terminology guidelines, 52..
82 Santa Cruise is a company in South Korea that analyses and deletes unwanted personal online/media contents upon requests. More information available in Korean at http://santacruise.co.kr/rb/?r=home.
85 Palermo Protocol, Article 3 (c).
The issues of sale and trafficking of children for sexual purposes are contentious and sensitive in South Korea. During World War II, the Japanese government trafficked young girls and women from its occupied countries, particularly South Korea. Girls trafficked to Japan were as young as 10. In 2016, the Japanese government apologised, but did not confirm “forceful taking away”. As a result, remaining survivors and NGOs are criticising the Japanese government harshly and the matter is still a source of tension between the two countries. Another child sex trafficking issue in South Korea stems from the United States Forces Korea’s (USFK) presence in the territory since the end of the Korean War. Incidents of sexual trafficking became serious following the USFK’s deployment, and a regional report revealed in 2016 that foreign women and girls were being trafficked to perform services for the USFK.

South Korea is continuing its serious and sustained efforts to eliminate human trafficking so that it fully meets the U.S. Department of State’s “minimum standards for the elimination of trafficking,” accordingly, South Korea has remained on Tier 1 for 16 consecutive years (since 2002). However, Tier 1 does not indicate whether there is a problem with human trafficking. It merely states that the country reaches the minimum requirements. As already stated, runaway children are particularly vulnerable to trafficking for sexual exploitation and the U.S. Department of State stated in its report that children are vulnerable to sex trafficking through online recruitment with runaway girls engaging in sexual exploitation in order to survive. Even though the National Human Rights Commission proposed improved sex trafficking victim identification guidelines in 2016 (such as improved victim protection schemes), the government has not updated the 2013 guidelines. Therefore, there is an urgent need to collect information, including statistics and data, pertaining to child victims of sexual trafficking, disaggregated by age.

According to Target 8.7 of the SDGs, the government has to take immediate and effective measures to eradicate human trafficking. However, it appears that many investigated and prosecuted cases do not result in actual convictions in South Korea. 64 offenders in 2015 and 213 offenders in 2016 were convicted.
The CRC Committee has expressed concern over the “low rates of prosecution for sexual exploitation of children”\(^96\) and the “low rate of conviction of traffickers”\(^97\). The Committee on Economic, Social and Cultural Rights was also concerned that “a large number of women and children are trafficked for sexual exploitation along with a low rate of prosecution and conviction of traffickers”\(^98\). This may partly be explained by a lack of understanding and sensitivity among relevant law enforcement officers of ‘human trafficking’\(^99\).

97 ibid: para 74.
99 ibid
103 ibid.
105 ibid.
phenomenon of ‘Kopino’, a term that describes children with a Korean father and a Filipina mother. Many fathers were young Korean students or short-term travellers who engaged in sexual activities.\(^{107}\)

In 2015, Korean men were still a main source of demand for child sexual exploitation in travel and tourism. The 2017 report by the U.S. Department of State revealed that some South Korean men travel specifically to engage in SEC offences in Vietnam, Cambodia, Mongolia and the Philippines.\(^{109}\)

It seems that South Koreans are lacking knowledge and awareness on the phenomenon. A survey conducted in 2012 found that 77.7 per cent of South Koreans were unaware SECTT was illegal, and 78 per cent claimed they would not be punished even if they were caught.\(^{110}\) In March 2017, nine South Korean men were arrested in the Philippines and extradited to South Korea for engaging in sexual exploitation. However, seven of them were cleared of suspicion without any conviction.\(^{111}\) Despite having extraterritorial legislation, the efficacity and enforcement are questionable, and no explicit data on children are available. The root causes of South Koreans’ lack of awareness on the issue could partially be explained by the continuation of familiarised ‘sex tourism’. However, regardless of its causes, all forms of exploitation against children should end according to Target 16.2 of the SDGs.


\(^{112}\) Terminology Guidelines, 63.


### International, Regional and National Commitments and Legislation on the Sexual Exploitation of Children

#### Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council

<table>
<thead>
<tr>
<th>International Instruments</th>
<th>Date of ratification/accession</th>
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<tr>
<th>Regional Instruments</th>
<th>Date of ratification/accession</th>
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<tr>
<th>Human Rights Bodies</th>
<th>Date of latest submitted report</th>
<th>Comments</th>
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</table>
| Committee on the Rights of the Child (CRC review) | 2008 - 3-4th periodic report submitted | Key concluding observations relevant to SEC:  
- “more efforts to prosecute all acts of SEC; 
- ensure sanctions against the perpetrators of child sex crimes based on the severity of the offence; 
- continue efforts to rehabilitate offenders; 
- provide rehabilitation services to boys as well as to girls”.118 |

| Committee on the Rights of the Child (OPSC review) | 2008 – Concluding Observations of the CRC Committee 2007 – 1st report submitted | Key concluding observations relevant to SEC:  
- “improve data collection on CSEC; 
- strengthen recovery and reintegration initiatives; 
- improve legal representation for child victims of CSEC”119 |
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<td>Human Rights Bodies</td>
<td>Date of latest submitted report</td>
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<tr>
<td>Human Rights Council – Working Group on the Universal</td>
<td>2017 – Third cycle</td>
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<tr>
<td>Periodic Review</td>
<td>2012 – Second cycle</td>
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<td>2008 – First cycle</td>
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**INTERNATIONAL AND REGIONAL COMMITMENTS**

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<th>International commitments</th>
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<td>The 2030 Agenda for Sustainable</td>
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<td>Development</td>
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<td>Tourism - a network of tourism</td>
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<td>stakeholders of the public and</td>
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<td>private sectors, non-profits, UN</td>
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<td>international organisations and</td>
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<td>promote ‘sustainable tourism’ and</td>
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<td>transform the tourism industry.</td>
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<td>the Sustainable Development Goals.</td>
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<td>WePROTECT - an international</td>
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<td>movement dedicated to national and</td>
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<td>global action to end the sexual</td>
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<td>exploitation of children online.</td>
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<td>governmental organisation that</td>
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<td>promotes exchanges between Korea</td>
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<td>and the ten ASEAN Member States.</td>
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<td>SAIEVAC - an inter-governmental</td>
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<td>body with a vision that all children,</td>
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<td>girls and boys, throughout South</td>
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<td>Asia should enjoy an environment</td>
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<td>free from all forms of violence,</td>
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<td>abuse, exploitation, neglect and</td>
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<td>discrimination.</td>
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<td>The Bali Process - a forum for</td>
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<td>policy dialogue, information-shares</td>
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<td>and practical cooperation for the</td>
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<td>region to address people smuggling,</td>
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<td>trafficking in persons and related</td>
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<td>transnational crimes.</td>
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South Korea participates in the Sustainable Development Goals (SDGs) through various measures and plans. The country is a State party to the UN Sustainable Development Solutions Network and its National Assembly created a Special Committee on Sustainable Development in 2014. In January 2016, South Korea directly addressed the SDGs through the Third Basic Plan for Sustainable Development 2016-2035. The Five Global Sustainable Management Forums were held in 2016 to include respect for child rights as a form of Corporate Social Responsibility. Most importantly, South Korea submitted a voluntary national report in 2016 with accurate data on its progress and implementation of the Sustainable Development Goals. Following Target 1.2, the Ministry of Health and Welfare enhanced a project called ‘Dream Start’, which prioritises child victims of sexual violence but is also accessible for poverty-affected children and in target local governments. The project focuses on prevention of abuse, as well as interventions to treat and support victims and work with families. As of 2016, 134,853 children benefited from it, and the project is running in 1,795 schools. There is also an NGO called ‘Korean Association for Supporting SDGs for the UN’, which is in charge of ‘partnership for SDGs global initiative’, and which has a special consultative status with the UN.

In terms of international commitments, the government is currently implementing the second Basic Plan for International Development Cooperation (2016-2020), which is designed to “improv[e] the rights of [the] child”. The National Police Agency Cyber Bureau is collaborating with the International Police by utilising the International Child Sexual Exploitation (ICSE) database hosted by INTERPOL from 2013. South Korea is a Member State of the United Nations World Tourism Organisation. The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism was adopted in 2005, and signatories include Korea Tourism Association, Korea Association of Travel Agents, and Korea MICE Association, as well as two national airlines, Korean Air and Asian Airlines. In 2017, the Ministry of Foreign Affairs, the Ministry of Health and Welfare, the Ministry of Unification and the Korea International Cooperation Agency convened with UNICEF to strengthen partnerships and discuss global policies further.

In terms of regional commitments, in 2015, the MGEF hosted the International Symposium on Prevention of Sex Trade, focusing on Southeast Asian countries, including a special session for

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125 Target 1.2: “By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions”.
128 Ibid. p. 37, para. 138.
131 ICSE, See more information at: https://www.interpol.int/Crime-areas/Crimes-against-children/Victim-identification.
UNODC’s response to sale and trafficking of children and women for sexual purposes. Furthermore, although South Korea is not a member state of the Association of South East Asian Nations (ASEAN), it participated in the Seventh High-Level Cross-Regional Roundtable on Violence against Children, in June 2017. One of the key events was the discussion of child delegates from South Korea on the issues of “child abuse and neglect, exploitation, harmful traditional practices and bullying”. In November 2017, the Ministry also hosted the Conference on Discussion of Law and Policy Seeking Prevention of Sex Trade.

In 2017, Child Rights Coalition Asia, together with ECPAT Korea, Save the Children, and Plan International, hosted the Asia-Pacific Partnership Meeting of Child Rights Coalitions and Networks in Thailand, to strengthen collaboration with ASEAN in implementing child protection initiatives, specifically focusing on violence against children.

**Exploitation of children in prostitution**

South Korea’s legal instruments regarding the sexual exploitation of children in prostitution mostly comply with international standards. The enacted laws strictly punish people who engage in or facilitate sexual activities with children, and tend to treat children as victims and not offenders. However, it appears that many laws are dealing with the issues, and not all of them are consistent. A lack of uniformity and cohesion not only in the definitions, but also in the scope of application may cause confusion among law enforcement officials. Thus, they should be amended and consolidated.

Child sexual exploitation in prostitution is covered in the Act on the Protection of Children and Juveniles against Sexual Abuse, which defines purchasing sex from a child or juvenile as intercourse, bodily contact, nudity, and masturbation in return for (the promise of) something of value. Under Article 7 (5) of the same Act, it is a crime to have sex with or to commit an indecent act against a child or juvenile through a deceptive scheme or by force, and it shall be punished by imprisonment of at least five years. Article 13 criminalises “any persons who purchase sex from or solicit a child or juvenile into prostitution” with at least one year of imprisonment or a fine up to 50 million won (approximately $45,000). If an offence involves coercion, a person shall be imprisoned up to five years. Moreover, under Article 15, if a person provides a place for or arranges the exploitation in prostitution of a child or juvenile, the crime shall be punished up to a limited term of at least seven years of imprisonment with labour.

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**NATIONAL LEGISLATION**

The Convention on the Rights of the Child (CRC) and its Protocol are directly applicable in the South Korean legal system. Article 6 (1) of the Constitution stipulates that “treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law shall have the ‘same effect’ as the domestic laws of the Republic of Korea”. However, when domestic laws and international laws are in conflict, national laws take precedence. Moreover, South Korea maintains its reservation over the Article 40 (2) (b) (v) of the Convention.

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141 Convention on the Rights of the Child (1989), Article 40 (2) (b) (v), is a provision ensuring that every child alleged or accused of infringing the penal law, has a right to be reviewed by a competent, independent and impartial authority or judicial body.


143 Ibid. Article 7 (5).

144 Ibid. Article 13.

145 Ibid. Article 15.

146 Ibid. Article 15
The Juvenile Protection Act and the Child Welfare Act offer some protection for children from exploitation in prostitution. The Welfare Act prohibits children from engaging in sexual activities and criminalises sexually harassing or abusing a child, and the Juvenile Act prohibits business establishments from allowing access to and employing juveniles in businesses that may be sexual in nature. Businesses are also prohibited from profiting from a juvenile engaging in a sexualised activity.

Although it is not specific to child sexual exploitation in prostitution, the Criminal Act may provide some forms of criminalisation. It stipulates that having sexual intercourse or committing an indecent act on a minor shall be punished by imprisonment of a maximum of five years. If an act was committed by a person who held his/her custody, the sentence rises to a maximum of seven years. Article 305 prescribes punishment for having sexual intercourse with a child who is under 13. If the victim is under 13, the Act on Sexual Crimes will be applied. Under this Act, Article 7 (1), if a person rapes a child under 13, he/she can be punished with life imprisonment. It is worth noting that, in the past, only a female could be a victim of rape crimes. However, the amendments were adopted in 2013 to be gender neutral.

Although not specific to ‘child sexual exploitation in prostitution’, the Act on the Protection of Children and Juveniles against Sexual Abuse provides accessory penalties for offenders who commit sexual offences. For instance, under the Act an offender’s personal information – i.e. name, age, actual place of residence, body size, photograph, and a summary of offences – shall be released publicly. The court may order offenders to notify authorities when moving or changing residence. According to the Act on Probation and Attachment of Electronic Monitoring Device against Specific Criminal Offenders, the court may request the offender wear an ankle bracelet for tracking purposes. Lastly, certain offenders of sex crimes may be sentenced to ‘chemical castration’ under the Act on Pharmacologic Treatment of Sex Offenders Sexual Impulses. If a court recognises that it has reasonable grounds, offenders could be subjected to that treatment for up to 15 years. Furthermore, according to the Act on the Use and Protection of DNA Identification Information Article 5 (10), when a person commits a sexual offence against children, a public prosecutor may collect a DNA sample for future investigation and to prevent potential crimes. Such strict punishment may have contributed to a decrease in recidivism of child sexual crimes. The rate dropped from 8.1% in 2011 to 4.4% in 2016.

149 Ibid. Article 30.
151 Ibid. Article 303 (2).
152 Ibid. Article 305.
154 Korea, “Act on the Protection of Children and Juveniles against Sexual Abuse”, Article 49.
155 Ibid. Article 50.
158 The crimes prescribed in Article 7 of the “Act on Protection of Children and Juveniles against Sexual Abuse” shall be executed with such medical treatment.
159 Ibid. Article 8.
160 A crime under any provision of Articles 7 and 12 through 14 (excluding cases under Article 14 (3) of the Act on the Protection of Children and Juveniles against Sexual Abuse).
Unfortunately, it appears that the law\textsuperscript{163} takes a punitive approach on child victims of sexual exploitation. A Korean language version\textsuperscript{164} of the Act on the Protection of Children and Juveniles against Sexual Abuse allows child victims to be punished. Additionally, according to Article 247 of the Criminal Procedure Act,\textsuperscript{165} it is at a prosecutor’s discretion to initiate a prosecution, regardless of the crime, based on the “age, an offender’s relation to the victim, motive for and circumstances after the commission of the crime”.\textsuperscript{166} This arbitrariness can potentially lead to a legal loophole.

**Online child sexual exploitation (OCSE)**

South Korean laws and local ordinances relating to OCSE are very comprehensive and in compliance with the OPCSC.

Article 2 (5) of the Act on the Protection of Children and Juveniles Against Sexual Abuse defines ‘child or juvenile pornography’ as the “depiction of children or juveniles, or persons or representations that can be obviously perceived as children or juveniles, doing any act such as engaging in any other sexual act, in the form of a film, video, game software, or picture, image, etc. displayed on computers or other communications media”.\textsuperscript{167} It is worth noting that the definition includes any material, which can be perceived as CSAM/CSEM. The Act prohibits and punishes the production, import and export, as well as the sale, loan, distribution or provision of CSAM/ CSEM for commercial purposes.\textsuperscript{168} Downloading and possessing CSAM/CSEM is also punished\textsuperscript{169} and viewing such materials can constitute possession under the Act.\textsuperscript{170} The Act also requires online service providers to post warnings against perpetrators on their servers, and punishes providers who fail to take appropriate measures against ‘child or juvenile pornography’.\textsuperscript{171}

Furthermore, although it is not specifically related to children and juveniles, the Act on Special Cases Concerning the Punishment, Etc. of Sexual Crimes penalises sexual extortion and revenge pornography. Sending sexually explicit materials to an individual is penalised,\textsuperscript{172} so is the act of taking or distributing, in any way, photos or sexually explicit materials of another person, with or without his/her consent. The prescribed punishments are worse if the act was committed for profit.\textsuperscript{173}

**Sale and trafficking of children for sexual purposes**

The Act on the Punishment of Arrangement of Commercial Sex Acts defines human trafficking, including juveniles, as any acts that allow the transferral of a targeted person under the control of an individual to another, by any means, for the purpose of engaging in sexual acts.\textsuperscript{174} The Act also explicitly states that victims of trafficking for sexual purposes will not be punished.\textsuperscript{175} However, it seems that many cases involving human trafficking are not taken seriously and do not result in actual convictions. This can be explained by the fact that the penalty is significantly weak. According to the Act, a person who engages in trafficking for sexual purposes shall be punished for ‘not more than’ a year, or with ‘misdemeanour’ imprisonment, or with a fine not exceeding three million won (approximately 3,000 USD), or by a ‘minor’ fine.\textsuperscript{176} The penalties are stricter in cases where the act

\textsuperscript{163} Korea, “Act on the Protection of Children and Juveniles against Sexual Abuse”, Article 38.

\textsuperscript{164} The English Translation states ‘no child’, but in Korean, it states ‘concerning child’.


\textsuperscript{166} Korea, “Criminal Act” (1953), Article 51.

\textsuperscript{167} Korea, “Act on the Protection of Children and Juveniles against Sexual Abuse”, Article 2 (5).

\textsuperscript{168} Ibid. Articles 11 (1) and (2).

\textsuperscript{169} Ibid. Article 11 (5)

\textsuperscript{170} In this regard, in 2015, the Seoul Western District Court applied the Act and sentenced a 24 year-old man to a one-year imprisonment and two years of probation on the charge of mere possession. The perpetrator bought 70 images and 20 video files from a 15 year-old girl and received them through Kakao Talk messenger. Even though he did not download and save the files on his smartphone, the court stated that he could “view, access, copy, distribute and delete the files on his will”. See also looang ilbo (2016), “Court, child pornography received through Kakao can be punished for simple possession”, Joins, 10 June 2016, accessed 25 October 2017, http://news.joins.com/article/20682489?cloc=rss|news|home_list. (available in Korean)

\textsuperscript{171} Korea, “Act on the Protection of Children and Juveniles against Sexual Abuse”, Article 17 (1) and (2).


\textsuperscript{173} Ibid. Article 14.


\textsuperscript{175} Ibid. Article 6 (1).

\textsuperscript{176} Ibid. Article 21.
was committed by force, brokering, or arranging business.\textsuperscript{177}

There are several other laws that punish the sale and trafficking of children for sexual purposes. The Act on the Protection of Children and Juveniles against Sexual Abuse punishes trafficking a child in or out of South Korea for the purpose of sexual exploitation, with imprisonment with labour for at least five years.\textsuperscript{178} Trading a child is punished by the Child Welfare Act for a maximum of 10 years imprisonment.\textsuperscript{179} In addition, the Criminal Act prescribes a maximum of 15 years’ imprisonment for a person who kidnaps, abducts or traffic a minor for sex trade, sexual trafficking or sexual exploitation.\textsuperscript{180}

**Sexual exploitation of children in travel and tourism (SECTT)**

There is no explicit law provision that criminalises the sexual exploitation of children in travel and tourism, but The Passport Act may contribute to preventing such crimes. According to Article 12, the Ministry of Foreign Affairs can refuse to issue a passport to South Korean nationals who commit crimes punished with imprisonment for a period of at least two years.\textsuperscript{181} However, the enforcement of the provision is based on the discretion of the Ministry, leaving a legal loophole. There is a need to enact the law that specifically addresses SECTT.

**Child, early and forced marriages (CEFM)**

The main legal system that governs marriage in South Korea is the Civil Act. According to Article 807, “any person who is eighteen years old or older may enter into matrimony”.\textsuperscript{182} Under Article 808, a minor may enter into marriage under certain conditions with both parents’ (in some cases only one parent) consent,\textsuperscript{183} co-signatures of both parties and two adult witnesses.\textsuperscript{184} If minors enter into marriage, they shall be deemed to have attained majority.\textsuperscript{185} However, under certain conditions, such marriages can be annulled.\textsuperscript{186} Unfortunately, such claim for annulment cannot be made if the minor reaches the age of 19 or if the female party has become pregnant during the marriage.\textsuperscript{187} In addition, the Marriage Brokers Business Management Act prohibits an arrangement of marriage if a person is under 18.\textsuperscript{188}

South Korea neither signed nor ratified the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.\textsuperscript{189}

**Extraterritorial jurisdiction and extradition law**

The South Korean legal system includes a provision for extraterritorial jurisdiction, which penalises nationals who commit sexual offences against children abroad. In accordance to the Act on the Protection of Children and Juveniles from Sexual Abuse, it is considered a crime and can be punished if a “Korean citizen commits a ‘sex offence against a child or juvenile’ outside the territory of Republic of Korea, pursuant to Article 3 of the Criminal Act”.\textsuperscript{190} The amendment to the Criminal Act in 2013 now applies to non-Korean nationals who commit such crimes against South Korean children overseas.\textsuperscript{191} The sex offences against a child or juvenile include crimes of rape, indecent act by force, have sex by force, crimes

\textsuperscript{177} Ibid. Articles 18, 19 (20), and 20 (1).
\textsuperscript{178} Korea, “Act on the Protection of Children and Juveniles against Sexual Abuse”, Article 12.
\textsuperscript{179} Ibid. Article 17 and 71 (1).
\textsuperscript{180} Korea, “Criminal Act”, Articles 287, 288, and 289.
\textsuperscript{182} Korea, “Civil Act”, Article 807.
\textsuperscript{183} Korea, “Civil Act”, Article 808.
\textsuperscript{184} Ibid. Article 812 (2).
\textsuperscript{185} Ibid. Article 826-2.
\textsuperscript{186} Ibid. Articles 816 (1) and 817.
\textsuperscript{187} Ibid. Article 819.
related to OCSE, trafficking for sexual purposes, purchasing sex, business of arranging prostitution and etc.\textsuperscript{192}

Furthermore, according to the Extradition Act, “any offender who is in the territory may be extradited to the Requesting State upon the request for the purpose of prosecution, trials, or punishment”.\textsuperscript{193}

Unfortunately, the Act explicitly stipulates a provision of double criminality requirement, which means that the offence must be prohibited both in the perpetrator’s country of origin and in the country where the offence was committed.\textsuperscript{194} The extradition may be denied when the offender is a South Korean national.\textsuperscript{195} Such provisions create a large gap in bringing justice to the offenders.

It is considered a crime if a

\begin{quote}
Korean citizen commits a ‘sex offence against a child or juvenile’ outside the territory of the Republic of Korea, pursuant to Article 3 of the Criminal Act
\end{quote}

From the "Act on the Protection of Children and Juveniles from Sexual Abuse", Article 33

\begin{itemize}
\item \textsuperscript{192} Ibid. Article 2.2.
\item \textsuperscript{194} Ibid. Article 6.
\item \textsuperscript{195} Ibid. Article 9 (1).
\end{itemize}
COORDINATION AND COOPERATION

The government does not have a responsible and comprehensive body that coordinates efforts on fighting the sexual exploitation of children. However, there are various institutions in charge of designing both national and international policies for children and young people. As a pivotal body, MGEF mainly takes responsibility in coordinating and implementing plans and programmes concerning children. The Ministry of Health and Welfare’s task is to protect all citizens including children. The recent periodic State Party report to the CRC Committee in 2017 was prepared by the two ministries, and other relevant agencies such as the National Human Rights Commission of Korea, child/youth facility employees, and NGOs, and was then finalised by the Child Policy Coordination Committee.  

The MGEF established the Child Policy Coordination Committee to orchestrate polices implemented by various other relevant agencies. It not only facilitates and initiates various measures but also conducts research and publishes a Comprehensive Survey on Status of Youth every three years. In 2015, it published an analysis on the trend and tendency of sexual offence against children and young people. Moreover, in 2016, it published a report on harmful contents and environment for children. Every year, the MGEF publishes the White Paper on Youth, based on the research and data gathered by concerted ministries; the latest one was published in December 2016. The Paper includes information regarding protection from harmful materials and sex trade for juveniles as well as sex education for juveniles. The Youth Statistics, which is very comprehensive and focuses on SEC, is released every year by the MGEF and Statistics Korea.

The Ministry of Health and Welfare also governs strategies regarding children. It established the Division of Child and Youth Welfare and conducted Comprehensive Survey on the Conditions of Children every five years. However, it is perceived as “inadequate to deal with the wide ranging scope of policies that affect children.” In 2015, to follow up on the recommendation, the Ministry of Health and Welfare formulated the first Master Plan for Child Policy (2015-2019). It has

200 Ibid.
201 Ibid.
158 policies and tasks upholding children's best interests.204

Another major coordinator of child-related policy is the National Human Rights Commission of Korea.205 It has a mandate to review and monitor legislation, policy and practice of relevant institutions. The Commission has set advancing the rights of children as a top priority.206 It set up the Child Rights Focus Group to assist and advise on the implementation of the Convention on the Rights of the Child.207 In 2016, the Commission established a Child Rights Committee to conduct independent monitoring of child and youth’s rights.208 In regards to the sexual exploitation of children, it published a research report on the context of sexual exploitation against children and juveniles in 2016.209 As the Ministry of Justice is preparing the third National Action Plan for the Promotion and Protection of Human Rights (2017-2021), the Commission suggested to the government that the Plan should guarantee the human rights of all children and juveniles.210

Even though the MGEF is currently implementing the fifth Master Plan for Youth Policy, the Committee on the Rights of the Child has expressed concern that the Plans do not contain programmes relating to the OPSC.211 Fortunately, the MGEF convened to improve and update the Second Comprehensive Measures for Youth Protection (2016-2018) and the upcoming Sixth Basic Plan for Youth Policy (2018-2022). The MGEF agreed to focus on protecting children from harmful environments, such as CSAM/CSEM and ‘sex trade’ establishments, enhancing protection for children in vulnerable situations, including protection from sexual abuse and violence, and promoting rehabilitation programmes for victims.212

There are several other National Plans that may provide protection and prevention of SEC. The government established the Measures for the Eradication of Sexual Violence against Children and Women in 2012, and the Comprehensive Measures for the Prevention of Sexual Violence (2013-2017) which are currently being implemented. The First Basic Plan for Gender Equality 2015-2017 was adopted in 2015. It states that protection will be improved and assistance provided for child victims of sexual violence. It specifically noted that medical support and psychotherapy services for ‘male’ victims will be enhanced. Moreover, the Plan iterates efforts to develop support for SEC victims, including foreign victims and victims of human trafficking. Strict punishments of SEC-related business establishments, which exploit juveniles are also mentioned, along with cracking down on online CSAM/CSEM.213 In November 2017, the MGEF held a public hearing for the draft of the Second Basic Plan for Gender Equality (2018-2022).214

Surprisingly, the Youth Ombudsman of Korea operated only from 2004 to 2006. However, other...
bodies exist to monitor and promote children’s rights, including the National Youth Policy Institute, which was established with the aim of developing policies closely related to children and young people’s rights. In 2013, it conducted research on comprehensive measures for protecting children and juveniles from sexual exploitation. In 2016, it also conducted a situational analysis on child rights in Korea. The situational analysis specifically addressed the sexual exploitation of children by referring to preventive measures, statistics, punishments, and rehabilitation facilities.

PREVENTION MEASURES, AWARENESS-RAISING AND EDUCATION

South Korea has adopted a proactive attitude towards preventing SEC throughout the years.

The MGEF recommended strengthening prevention strategies by increasing the number of local and regional ‘sex education centres’ for children. Early 2018, there were 58 such centres in the country (48 in buildings and 10 on educational buses). Some provincial centres provide a programme on ‘Understanding of Cross-border SEC’ to intermediate and high school students. The educational buses conduct a SEC prevention campaign with the public sector in Seoul. Moreover, to raise awareness among citizens, especially children, parents, and relevant institutions, the MGEF has set up an ‘eradication period of domestic violence, sexual violence and sex trade’ from November to December 2017. Additionally, since many runaway children are reportedly involved in sexual exploitation in prostitution, the government started operating ‘Out-of-School Juvenile Support Centres’. Since 2016, 202 such centres are in place.

The main responsible independent monitoring body that assesses and orders correction/deletion of harmful and illegal materials online is the Korea Communications Standards Commission (KCSC). KCSC is responsible for requesting the labelling of and/or the deletion of harmful contents to children such as sexual violence, nudity or pornography, through the operator ‘SafeNet’. In the first half of 2017, the Commission reported 32,599 obscene and sex trade cases, blocked 28,528 websites, and deleted 450 websites. A South Korean Child-Monitoring Smartphone Application, temporarily banned in 2015 because of security flaws, is now back on the market with a new name ‘Cyber Security Zone’, thanks to the government’s efforts. A similar application called ‘Green I-Net’ was also developed to prevent middle and high school students from being exposed to harmful materials including CSAM/CSEM. Moreover, in 2017, ECPAT Korea hosted a forum on Child Sexual Grooming, with a specific focus on preventing demand for online grooming.

In regards to education, the Child Welfare Act explicitly enforces child-related welfare facilities to formulate annual education plans with content on the “prevention of sexual violence and child abuse.”
The Act on the Prevention of Commercial Sex Acts and Protection, Etc. of Victims also imposes a duty on relevant actors\textsuperscript{230} to implement educational programmes to prevent commercial sex acts.\textsuperscript{231} Recently, in March 2017, the MGEF promised to enhance preventive education and punishment for overseas sex trade through the ‘47th Committee on the Countermeasures to Overseas Sex Trade’.\textsuperscript{232} In 2017, the Aha Sexuality Education and Counselling Centre for Youth, along with several other NGOs, including ECPAT Korea, initiated a campaign called ‘Puberty Party’ for primary school students to better understand sexuality and to prevent sexual exploitation.\textsuperscript{233}

In 2017, the MGEF published a customised leaflet for people in specific occupational roles who have a legal duty to report sexual offences against children and juveniles.\textsuperscript{234} Finally, the MGEF will initiate an educational project in 2018 to prevent recidivism of sexual offenders against children and juveniles.\textsuperscript{235}

230 State agencies, local governments, elementary schools, middle schools, high schools, and other public organisations.
236 Korea, “Civil Act”, Article 5 (1).
237 Korea, “Civil Procedure Act”, Article 55 (1).
238 Korea, “Civil Act”, Article 909 (1).
239 Ibid. Article 911.
240 Ibid. Article 912 (1).
241 Ibid. Article 928.
242 Ibid. Article 945.
244 Ibid. Article 19 (3).
245 Ibid. Article 19 (2); and Korea, “Civil Act”, Article 940.
Another legal option for a child is to file a petition\textsuperscript{246} with the National Human Rights Commission\textsuperscript{247} albeit under certain conditions.\textsuperscript{248} The Commission may initiate investigation on its own if it finds reasonable grounds for a violation of human rights.\textsuperscript{249} Furthermore, a child could also file a petition to the Commission with the help of a third party, including non-governmental organisations.\textsuperscript{250} Although, the Commission has no juristic authority to make an entity comply with its recommendation,\textsuperscript{251} it may refer a case to the Prosecutor General if the case amounts to a criminal offence.\textsuperscript{252}

Despite various legal options from which children can choose, there is still a lack of legal forums, which prevents children from receiving full legal protection. There is no specialised juvenile court in South Korea. Instead, several Family Courts deal with cases involving children. However, they tend to focus on juvenile delinquency, rather than focusing on child victims.\textsuperscript{253} The lack of an independent and comprehensive monitoring body for children poses a significant problem.

\textbf{Child-sensitive justice}

There are several measures under the Criminal Procedure Act, which are child-sensitive. A person under 16 is exempted from taking an oath before testifying.\textsuperscript{254} The Act allows the victim to be accompanied in court by someone who has a “reliable relationship with [him/her]”, if she/he is younger than 13.\textsuperscript{255} Moreover, it allows the court to hear a witness outside the courtroom depending on “his/her age, vocation, health condition, and other special circumstances”.\textsuperscript{256} The Act also specifies that a child, juvenile, or victim of human trafficking and sex crimes\textsuperscript{257} can testify via video or other transmission system.\textsuperscript{258} In 2012, the Supreme Court stated that “submission of videotapes of child victims in a sexual offence case does not violate Article 10 (right to human dignity) and Article 11 (equality before the law and prohibition of discrimination) of the Constitution”.\textsuperscript{259} In terms of protecting the privacy of child victims of sex offences, Article 55 of the Act on the Protection of Children and Juveniles against Sexual Abuse prohibits the publication of “any information or material such as their personal information or pictures, or disclose them through newspapers, magazines, or other publications, broadcasting or any information and communication network”.\textsuperscript{260}

In regards to legal advice and aid, a child may be granted a litigation aid in accordance to the Civil Procedure Act. The latter stipulates that “a court may grant a litigation aid upon request of a person who falls short of the solvency to pay the costs of lawsuit”.\textsuperscript{261} The Legal Aid Act explicitly prescribes the prohibition of legal services fees for a child.\textsuperscript{262} According to the Korea Legal Aid Corporation’s website, people eligible for legal services\textsuperscript{263}

\begin{itemize}
  \item \textsuperscript{248} There are two conditions to file a petition: (1) violations of Articles 10 to 22 of the Constitution by state, local entities or protective facilities; and in case of (2) discriminatory act or any violation of the right to equality committed by a legal body or individuals.
  \item \textsuperscript{249} Ibid, Article 30 (3).
  \item \textsuperscript{250} Ibid, Article 30 (1) 1.
  \item \textsuperscript{251} Ibid, Article 25.
  \item \textsuperscript{252} Ibid, Article 45.
  \item \textsuperscript{253} Committee on the Rights of the Child, “The 5th and 6th Periodic Report to the UN Committee”, pp. 49-50, para. 184.
  \item \textsuperscript{254} Korea, “Criminal Procedure Act”, Article 159.
  \item \textsuperscript{255} Ibid, Article 163-2 (2).
  \item \textsuperscript{256} Ibid, Article 165.
  \item \textsuperscript{257} A crime referred to in Articles 7, 8, 11 through 15, and 17 (1) of the Act on the Protection of Children and Juveniles against Sexual Abuse.
  \item \textsuperscript{258} Korea, “Criminal Procedure Act”, Article 165-2.
  \item \textsuperscript{259} Ibid, Supreme Court Decision, 2012Do3893
  \item \textsuperscript{260} Korea, “Act on the Protection of Children and Juveniles against Sexual Abuse”, Article 55.
  \item \textsuperscript{261} Korea, “Civil Procedure Act”, Article 128.
  \item \textsuperscript{262} Government of Korea (1986), “Legal Aid Act” Article 7 (2) 5.
  \item \textsuperscript{263} The scope of such services are civil, criminal, administrative, constitutional, family cases and particularly nominated cases for sexually abused children and victims of sexual violence.
\end{itemize}
are victims of sexual violence, student victims of school violence and foreign residents who are having financial difficulty. Additionally, the Korean Bar Association and the Korea Legal Aid Centre for Family Relations also offer free or subsidised legal assistance to minors. Although it does not specify children, the Sexual Violence Prevention and Victims Protection Act also provides legal aid. Lastly, South Korea adopted a Public Defenders System in 2013, which is exclusively in charge of providing prompt support for victims.

Despite the presence of various child-sensitive measures in South Korea, the Committee on the Rights of the Child stated that “the questioning and legal process for child victims of sex offences remain inadequate”. It recommended “develop[ing] child-friendly procedural rules and ensur[ing] the child victim is treated with greater respect for his or her privacy and dignity”. Representatives of the NGO sector stated that child victims of sexual exploitation in South Korea often see their victimhood denied and are sometimes treated as offenders. Accordingly, in 2017, ECPAT Korea held a Forum on the Construction of Comprehensive Protection System for Child Sexual Exploitation Victims, to address this problem.

A full amendment of the Family Litigation Act was proposed in 2017 to provide a child-friendly justice system, including measures for victimised children or juveniles, and allowing opinions of children under 13 to be heard.

Access to recovery and reintegration

Several legal frameworks focus on child victims’ access to recovery and reintegration. The Sexual Violence Prevention and Victims Protection Act imposes State and local governments to provide support for the rehabilitation of victims of sexual violence. The prescribed duties refer to Article 46 of the Act on the Protection of Children and Juveniles against Sexual Abuse. According to the Child Welfare Act, the government must establish a National Child Protection Agency, and must provide measures, including “counselling, medical treatment, education for abused children and post management of the abused child’s family”.

Furthermore, there are some centres, which specifically deal with child victims of sexual offences. The Sunflower Children Centre, established by the MGEF, provides counselling, medical support and psychological treatment.

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266 The Korea Legal Aid Centre for Family Relations, “Legal Counselling”, accessed 21 November 2017, http://lawhome.or.kr/newhome/eng/sub02/body01.asp.
273 Korea, “Sexual Violence Prevention and Victims Protection Act”, Article 3 (1) 4.
274 Korea, “Act on the Protection of Children and Juveniles against Sexual Abuse”, Article 46.
275 Korea, “Child Welfare Act”, Article 45 (1).
(liaising with hospitals), legal assistance, and post-management support for child victims of sexual offences only. As of 2016, there are 37 centres across the country. Moreover, there is a Seoul Crisis Intervention Centre for Women and Children. The latter offers similar support for child victims of sexual exploitation, including victims of sexual trafficking. Child victims can apply for help at the centre, and when the offence requires legal assistance, the case is referred to Korea Legal Aid Corporation.

**Access to compensation**

There is no explicit provision for child victims of sexual exploitation to access compensation. Yet, various legal provisions allow compensation to be given to victims. According to Article 750 of the Civil Act, “any person who causes losses to or inflicts injuries on another person by an unlawful act, intentionally or negligently, shall be bound to make compensation for damages arising therefrom.”

Article 751 allows compensation even if a crime does not cause economic damages. No law allows punitive damages to be awarded to child victims in South Korea. The Sexual Violence Prevention and Victims Protection Act allows counselling centres to lodge complaints against sex offenders and claim compensation for damage. Similarly, the Act on the Protection of Children and Juveniles from Sexual Abuse allows counselling facilities to request civil and criminal procedures and to claim compensation for damage.

Additionally, although this may not qualify as financial compensation, the government eased the requirements in 2015 for crime victims to receive better housing support, including access to short/long-term care shelters and livelihood protection. If parents are the perpetrators, victims also receive support and are placed in shelters. Finally, to encourage children and juveniles to report sexual offences, the MGEF simplified the compensation procedure.

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280 Korea, “Civil Act”, Article 750.
281 Ibid. Article 751.
282 Korea, “Sexual Violence Prevention and Victims Protection Act”, Article 11.5.
283 Korea, “Act on the Protection of Children and Juveniles from Sexual Abuse”, Article 46 (2) 4.
285 Information provided by Tacteen Nail/ECPAT Korea, the ECPAT’s affiliated Member Group in South Korea.
Child participation is high in South Korea, but it appears that no initiative or campaign allows child victims and survivors of sexual exploitation to have their specific perspectives considered in law and policy-making.

According to the Child Welfare Act, “[for] all activities concerning children, the interest of children shall be considered preferentially”. The Framework Act on Juveniles stipulates that “juveniles shall have the right to freely express their opinions and make their own decisions while disregarding external influences”. The Act also imposes the State to hold special meetings every year with juveniles. Besides the legislations, the Fifth Basic Plan on Youth Policy set juvenile participation as its second major goals.

At the ministerial level, under the jurisdiction of the MGEF, there are three distinctive child-related bodies where children engage in the decision-making process of policies that affect them. First, the Special Committee on Youth manages national level policies by submitting a recommendation directly to the government. Second, the Youth Participation Committee was created to review and coordinate ministerial and/or local level policies through various discussions, conferences, and campaigns. Third, the Youth Steering Committee was found in order for children to evaluate and monitor youth-related facilities.

With the authorisation of the Ministry of Health and Welfare, Korea Council of Children’s Organisation (KOCCONET) was established. In November 2017, in order to participate in the process of submitting alternative reports to the CRC Committee, children voluntarily formed a working group and took part in the press conference.


ECPAT Korea also conducts various campaigns with children on sexual rights, the prevention and protection from sexual exploitation. In 2017, an International Clean Media Conference was held, sponsored by ECPAT Korea, with the aim of paying attention to the voices of and encouraging children and adolescents’ participation.

Since 2003, the Korea Sexual Violence Relief Centre held a survivors’ speech event annually. This forum provides survivors with opportunities to raise their voices regarding the experience of sexual victimisation. However, the participation of child victims of SEC in these forums is very low.

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289 Ibid. Article 12 (1).
294 Information provided by Tacteen Nail/ECPAT Korea, the ECPAT’s affiliated Member Group in South Korea.
Recommendations for Action

INTERNATIONAL AND REGIONAL LEGISLATION, COMMITMENTS AND COORDINATION TO ENDING SEC

- Accede to the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure and the Convention on Consent to Marriage, Minimum Age for Marriage and registration of Marriages.
- Ratify the UNWTO Framework Convention on Tourism Ethics, and encourage travel agents and tourism agencies to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.
- Cooperate with the regional/international community on all SEC-related offences by providing mutual legal assistance, exchange of information, and support in investigations.
- Incorporate and implement the provisions of international legal mechanisms, such as the Convention on the Rights of the Child, along with its Protocols, and refer to child-related international treaties, especially the CRC and OPSC provisions, in domestic courts.
- Contribute to the establishment of a responsible governmental and ministerial institution that is comprehensive and pivotal, together with sufficient authority and mandate, in dealing with SEC-related issues. As such, coordination among ministries and organisations should be improved.
- Ensure consistent definitions around SEC across different relevant legislation.
- Either amend the current laws related to OCSE or adopt a new law to regulate online practices, which might put children at risk.
- Revise the Act on the Protection of Children and Juveniles against Sexual Abuse to criminalise the act of knowingly accessing and viewing CSAM/CSEM on the Internet.
- Improve the identification of child victims of trafficking and develop a better tracking system for potential offenders.
- Adopt and enact national legislations that explicitly penalise crimes of SECTT.
- Conduct awareness-raising campaigns among South Korean nationals, liaising with the hospitality industry, as the majority of them are still unaware or ignorant of the consequences of SECTT.
- Abolish the principle of double criminality in the Extradition Act, which greatly hinders extraditing offenders, and establish extraterritorial jurisdiction over all SEC-related crimes.

NATIONAL RESPONSE TO SEC’S MANIFESTATIONS

- Amend the definition of a child in national legislations to an individual below the age of 18, in accordance with international standards.
- Raise the age of sexual consent (currently set at 13).
- Strengthen the prosecution and conviction of SEC-related crimes to ensure the accountability of offenders.
Develop an adequate training programme for law enforcement officials including judges, prosecutors, lawyers, policy officers, civil servants, social workers, schoolteachers, health workers and other professionals on all the manifestations of sexual exploitation of children.

ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

Establish responsible courts with full authority to deal with cases of sexual exploitation, instead of referring them to other courts.

Improve child-sensitive complaint procedures, reporting and petition mechanisms according to a child’s best interests. Define the legal status and authority of the Korea Monitoring Centre for Children’s Rights and re-establish the Office of the Ombudspersons for Children’s Rights.

Amend the Act on the Protection of Children and Juveniles against Sexual Abuse, which takes punitive approaches towards child victims and allows them to be punished as juvenile offenders.

Improve the facilities in place for a child-friendly justice system and ensure the adequate implementation of existing provisions.

Provide recovery systems commensurate to punishments not only for short-term rehabilitation programmes, but also for mid or long-term measures and post-management or follow-up care, until a full recovery is achieved and children can successfully reintegrate into their society and/or families.

Provide better recovery and reintegration services to boy victims.

Enhance compensation programmes to ensure that child victims of SEC receive adequate compensation in accordance with Article 9 (4) of the OPSC.

Child, Victim and Survivor Participation

Improve child participation platforms or forums on all aspects of SEC; establish more children-led initiatives and organisation, and encourage all children to participate in the decision-making processes that are relevant to them.

Conduct more awareness-raising campaigns on victims’ and survivors’ participation, with the goal to reduce the stigmatisation of victims. This can be done by prioritising the best interests of child victims and survivors of SEC.

RESEARCH NEEDS AND AGENDA

Allocate more resources and strengthen the national data collecting system, including statistics and numbers, disaggregated by sex and age, especially pertaining to child victims of SEC.

Undertake qualitative and quantitative research on the risk factors and root causes of SEC in particular around new forms of potential SEC (such as image-based sexual extortion).