Child Pornography/Child Abuse Images

Legal priorities

The Rio Declaration calls for the criminalization of intentional production, distribution, receipt and possession of child pornography as well as of intentional consumption of child abuse images. An issue of major importance for the protection of children from exploitation lies in the very definition of child pornography. The vast majority of the world's national legislations lack a clear definition of child pornography, particularly in relation to its possession. 89 States do not have a specific legislation against child pornography and the legislation of 52 others fails to define what child pornography is[1]. In the *Rio Declaration and Plan of Action* as well as the *Optional Protocol to the Convention on the Right of the Child on the Sale of Children, Child Prostitution and Child Pornography* (OPSC)[2], the possession of child pornography is understood as mere possession. This means that the possession of child pornography should be criminalized regardless of the intent of distribution or any other purpose.

In 2010 the Centre for Missing and Exploited Children (ICMEC) screened 196 countries to research where the issue stands in their respective political agendas. According to the study, in the last four years the number of countries which criminalize mere possession has grown from 49 to 67[3]; and 15[4] States criminalized it during the period 2008-2010.

Criminalization of mere possession of child pornography

The *Rio Declaration and Plan of Action* calls for the criminalization of virtual images and sexually exploitative representations of child pornography. Virtual child pornography includes visual depictions of child abuse that can be found in certain comics, animations, video games, cartoons, etc which does not involve a real child in its production. This can also include morphed images where the images of a real child is superimposed on the image of an adult to portray child sexual abuse. Some of these representations can be very violent and commodify children as objects of sexual desire but are sometimes not recognized as child abuse images because they are considered to be victimless or protected by artistic or freedom of speech.

The *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse criminalises virtual child abuse images and urges all states to adjust their law to include this provision*[5]. An example of the difficulties of enacting this provision is 'manga' comics and print cartoons, produced in Japan and consumed all over the world. In Japan the possession and distribution of very explicit manga is perfectly legal although they can portray very detailed images of sexual abuses such as child rape. The proposed Virtual Child Pornography Bill, which would criminalize virtual child pornography in Japan, has been recently put on hold.

The role of private sector in reporting and preventing child pornography

Enhancing collaboration amongst relevant professionals is crucial to fight child pornography. As recommended in the Rio Declaration and Plan of Action, Internet service providers (ISPs), mobile phone companies, Internet cafes and other actors that could be indirectly involved with the dissemination of child abuse images should be held responsible to adopt child protection measures in relation to their business. Two measures to be adopted are the obligation to report child abuse content and the compulsory adoption of Code of Conducts

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(CoC) and corporate regulations. There has been an acknowledged difficulty in making these obligations legally binding and the vast majority of corporations that have eventually adopted a Code of Conduct to promote the safety of children using the Internet have done so independently from governmental regulations. Over the last two years only two countries, Italy and the Philippines, have modified their domestic legislation to make ISPs responsible for reporting on child pornography[6]. It is therefore urgent to develop specific legislation where Industry self regulation fails to address reporting of alleged offensive materials. Through the Make-IT-Safe campaign organized by ECPAT International, many cybercafés in West Africa and in Asia has adapted measures to prevent misuse of their setups for facilitating sexual crimes against children. This includes signing of code of conduct, display and dissemination of useful information related to Internet safety and implementing good practices within the business operations to keep children protected. Moreover such acts has also helped in raising public awareness on the issue.

Recent achievements

Development of capacities

The Rio Declaration highlights the importance of developing professionals' capabilities to prevent and stop child pornography. Following the World Congress III there have been a number of achievements in this direction.

The ROBERT Project (Risktaking Online Behaviour - Empowerment through Research and Training) was launched in June 2010, funded by the European Commission Safer Internet Programme and coordinated by the Council of the Baltic Sea States' Expert Group for Cooperation on Children at Risk. The ROBERT Project aims to make online interaction safer for children and youth by learning and researching about online abuse processes and factors that make young people vulnerable whilst studying those that offer better protection. It also promotes experience-sharing on online abuses to identify vulnerability issues, like grooming, and to share strategies which address the problem[7]. Another good example is the training program of the *Child Exploitation and Online Protection Centre* (CEOP), based in the UK. CEOP collaborates with the National Police and Intelligence providing tailored courses to professionals working in child protection areas in relation to online environment . In 2009, 3,370 child protection specialists (trained by CEOP) were delivered courses on child sexual abuse through the Internet[8].

In 2009 the Swedish BUP-Elefanten (Child and Adolescent Psychiatric Unit) presented the results of its Online Project. The purpose of the project was to gather and compare information and techniques in order to identify the special therapeutic needs of children who have been sexually abused online and create better tools for their rehabilitation. In 2009 the first specialized conference on child recovery from online sexual abuses took place in Stockholm[9]. Following the strong recommendations coming out of the world Congress III which emphasized the promotion and establishment of reporting hotlines to report incidences of child sexual exploitation, in May 2010 ECPAT International organized an International Hotline technical training Workshop in Taiwan to build the capacity of ECPAT member groups running such hotlines and also to build on current knowledge and practices. The workshop was an opportunity to develop capacities and discuss challenges and best practices and has led to more ECPAT members advancing towards establishing an Internet reporting hotline following the training. With the collaboration with many organisatons including INHOPE and ECPAT, the global system for mobile phone association (GSMA) has published a toolkit for hotlines called " Hotlines: Responding to reports of Illegal Online Content" which is a good reference document for all startup Hotlines along with those that are already established.

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Development of technologies

The Rio Declaration encourages research in the development of new technologies to identify images taken with electronic devices (web cameras, digital cameras etc). New technologies are important not only to identify child victims but also to trace abusers and to stop on-going exploitation. In December 2009 the Microsoft Corporation donated to the US National Centre for Missing and Exploited Children (NCMEC) a new tool to fight the proliferation and sharing of child abusive images via the Internet. The technology, called PhotoDNA, is used to calculate the images' digital fingerprints and find hidden copies of the same image. The International Child Sexual Exploitation Image Database (ICSE DB) was announced by INTERPOL during the World Congress and launched in 2009. ICSE DB uses a sophisticated system of images comparison to identify and record suspected abusers and also can connect victims with places through intelligent software. Moreover the new database provides the authorized law enforcement in a country to access the database directly and in real time , thereby facilitating immediate response to queries and aiding investigation[10]. IT company Netclean which specializes in creating filter products for child abuse images have recently launced a software that will help tourism sectors such as Hotels and businesses that provide Wifi Internet services to their guests to make sure such networks are free from spreading known child abuse images. Appropriate authorities will be alerted when someone tries to access or download such content from the Internet and such actions can be logged and traced to help the law enforcement in investigative procedures.

Google in latin America has helped the hotline in Brazil (Safernet) with technical tools that automate the analysis of images through software, aiding the work of the analyst. This tool can not only process thousand of images very quickly but can also identify the images even if they go through several series of alterations and modifications which was difficult in the past.

Finance sector

In 2009 the Financial Coalition against Child Pornography (FCACP) opened its South East Asian regional office in Singapore[11]. During the same year the European Financial Coalition against Commercial Sexual Exploitation of Children Online, a network formed by financial and Internet corporations, police agencies, the European Commission and child protection specialists, was founded. The Coalition aims to disrupt the use of all payment chanels such as credit cards and bank transfers for transactions related to child abuse images and has been actively exapanding membership in the APAC region. A leading law firm Allen & Overy has accepted to do a 6 country research in the region looking at legal landscape in those countries that concerns child abuse images*.

Unified database: The Rio Call for action also stipulated setting up of common list of websites, under the auspices of Interpol, containing sexual abuse images based on uniform standards whose access would be blocked. To this end the network of Hotlines INHOPE have developed a unified URL database to be used by the member groups to avoid duplication of efforts and to act on the reports quicker , within the jurisdiction of the Hotline.

Two examples of challenges

ISP filters

A much discussed example of child protection measure is the adoption of filters by ISPs to block access to websites containing child abuse images. Ending the circulation of sexual abuse imagery without imposing

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* http://www.icmec.com/missingkids/servlet/PageServlet?LanguageCountry=en_X1&PageId=4355

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censorship and blocking the access to other content on the Internet is a very delicate and challenging issue. Furthermore, whilst Internet filters can be effective for websites they are not for other channels like chats, file-sharing programs, blogs, and peer-to-peer networks. At present, no country has made mandatory the use of such filters, apart from Italy[12]. In Australia the possibility of introducing a mandatory system of Internet filters is under debate.

It has been observed by CEOP the UK law enforcement agency that only 7.5 percent of the child abuse images detected by their forensic experts come from commercial sources and newer materials are coming from peer to peer channels, which indicate that those children pictured in these less common images might still be currently being abused and thereby they are focusing more on these type of networks**.

The need to develop capacities for care and rehabilitation of child victims of Internet offences

One of the issues prioritized during the World Congress III was the lack of specialized support available for child victims, which still remains a major challenge. Even though lots of resources are invested in researching new technologies, after the eventual identification, victims do not always have access to proper care and rehabilitation because of lack of resources or capacities within the law enforcement systems or lack of specialized agencies capable of dealing with such situation. Recently, some countries such as the Philippines have adopted provisions highlighting the victims' rights to proper care. However, although adopting legislation which encompasses rehabilitation provisions is commendable, it has limited effectiveness if it does not specify the activities to be implemented nor allocate a specific budget to them.

** http://libertus.net/censor/isp-blocking/ispfiltering-gl.html#uknofilter

ENDNOTES

1 ICMEC, Child Pornography: Model legislation and Global Review, 2010 Accessed on 20 October 2010 from http://icmec.org/en_X1/icmec_publications/English__6th_Edition_FINAL_.pdf

2 OPSC art. 2, paragraph 1, (c): "Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether these offences are committed domestically or transnationally or an on individual or organized basis: (..) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography (…)".

3 Data acquired from ICMEC, Child Pornography: Model legislation and Global Review, 2006 and ICMEC, Child Pornography: Model legislation and Global Review, 2010. Accessed on October 2010 from http://www.icmec.org/en_X1/pdf/English_2nd_Edition.pdf and http://icmec.org/en_X1/icmec_publications/English__6th_Edition_FINAL_.pdf

4 Botswana, Chile, Colombia, Guatemala, Indonesia, Jamaica, Latvia, Mexico, Monaco, Nicaragua, Philippines, Seychelles, Slovenia, Suriname, Ukraine. States that criminalize simple possession of child pornography in 2010 but were not reviewed by ICMEC in 2008 are North Korea and Vanuatu

5 ECPAT International, Child Pornography and Sexual Exploitation of Children Online. Preparatory Expert Meeting to the WCIII against Sexual Exploitation of Children and Adolescents, Bangkok 2008

6 Data acquired from ICMEC, Child Pornography: Model legislation and Global Review, 2006 and ICMEC, Child Pornography: Model legislation and Global Review, 2010

7 RISKTAKING ONLINE BEHAVIOURAL EMPOWERMENT THROUGH RESEARCH AND TRAINING, Robert Project, Accessed on 1 October 2010 from http://www.childcentre.info/public/ROBERT_EN.pdf

8 CEOP, Annual Review 2009/2010, Accessed on 1 October 2010 from http://www.ceop.police.uk/Documents/CEOP_AnnualReview_09-10.pdf

9 http://www.childcentre.info/calendar/dbaFile16979.pdf, Accessed on 11 October 2010

10 https://www.interpol.int/Public/Children/Default.asp Accessed on 04 October 2010

11 ICMEC, Overview Program, Accessed on 06 October 2010

12 http://www.camera.it/parlam/leggi/06038l.htm Accessed on 06 October 2010

13 ECPAT International, Child Pornography and Sexual Exploitation of Children Online. Preparatory Expert Meeting to the WCIII against Sexual Exploitation of Children and Adolescents, Bangkok 2008

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