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REPUBLIC OF KOREA**

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Contribution prepared by:

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ECPAT Korea is the ECPAT network Affiliate Group in South Korea (Tacteen Naeil). ECPAT Korea was established in 1995 and focuses on combating the sexual exploitation of children in travel and tourism, provides education and training for caregivers and counselling for child victims and implements preventive programmes on commercial sexual exploitation of children.

ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for sexual purposes) is the leading global network working to end the commercial sexual exploitation of children (child prostitution, child pornography and child trafficking). It represents 82 member organizations from 75 countries. ECPAT International holds Consultative status with ECOSOC. Website: www.ecpat.net

Executive summary

This contribution aims to provide a review of the status of implementation of international obligations and commitments regarding the commercial sexual exploitation of children (CSEC) in Korea since the last Universal Periodic Review in 2008. In November 2008, the Government of Korea participated in the Third World Congress against the Sexual Exploitation of Children and Adolescents during which it committed to undertake more initiatives to protect children from commercial sexual exploitation.

Korea is party to the main international treaties addressing the commercial sexual exploitation of children with the exception of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*. The ratification of the Protocol should be prioritised.

In regards to domestic legislation, the main concerns are the lack of compliance of human trafficking laws with relevant international legal standards and the low rate of prosecution and conviction of individuals or organisations involved in child trafficking and child pornography.

Various national plans of action addressing CSEC have been created. However, their content must be made consistent with each other and their coordination should be improved in order to avoid gaps and duplication of efforts. In terms of child victim care and support, many specialised institutions have been developed to provide relevant assistance (e.g. “Sunflower Children Centres” and “One-Stop Support Centres”), however, boy victims of CSEC do not have access to adequate rehabilitation services.

The following findings are drawn from relevant literature, including the ECPAT International *Global Monitoring Report on the status of action against commercial sexual exploitation of children – South Korea: Second edition*, 2012 and The Committee on the Rights of the Child Concluding observations: Republic of Korea, February 2012 (Consideration of reports submitted by States parties under article 44 of the Convention).

1. Current normative and institutional framework for the promotion and protection of human rights

1.1 Legal framework

1.1.1 International legal standards

South Korea has ratified the main international legal standards protecting children from commercial sexual exploitation such as the *Convention on the Rights of the Child* and its *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography* (OPSC), as well as the *ILO Convention No. 182 on the Worst Forms of Child Labour*. However, although the Government signed the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (Trafficking Protocol), it has not yet been ratified.

Key recommendation: The Korean government must ratify the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*.

1.1.2 Domestic legal framework

1.1.2.1 Laws addressing child prostitution

South Korea enacted several laws addressing child prostitution, such as *the Act on the Protection of Juveniles from Sexual Exploitation* and the *Act on the Punishment of Procuring Prostitution and Associated Acts* (2004). These laws define child prostitution in compliance with relevant international legal standards and punish individuals who engage in sexual activity with children, as well as those who facilitate child prostitution. However, these laws are not consistent with regard to penalties for offenders. It is unclear which law is applicable to child prostitution cases and the penalties inflicted to offender may vary according to the law enforced by the courts.

Key recommendation:

- The provisions addressing child prostitution should be reviewed and harmonised so that consistent sentences can be applied to child sex offenders.

1.1.2.2. Laws addressing child pornography

The provisions found in the *Act on the Protection of Juveniles from Sexual Exploitation* addressing child pornography are consistent with the relevant provisions of the OPSC. Offenses covered by the Act even go beyond the scope of the OPSC by criminalising mere possession of child pornography (possession without the intent to distribute).

In addition, Korea enacted *The Act on the Punishment of Grooming* in 2008, which criminalized soliciting a child or youth for sexual purposes, which also elaborates on protections provided by the OPSC. Furthermore, as requested by the *Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents*¹, the *Act on Protection of Juveniles from Sexual Exploitation* imposes obligations to online service providers to immediately delete or technically prevent or block obscene materials involving children.

The rates of prosecution of individuals involved in child pornography related matters, however, are low. For example, in 2010, only 3 individuals were arrested for the possession of child pornography. In addition, it appears that the *The Act on the Punishment of Grooming* as well as the government's programme to prevent online grooming ("Youth keeper programme") are not well known by the general public and or by children.

¹ The *Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents*:

http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII_Outcome_Document_Final.pdf

Therefore, only a small number of cases of online grooming have been reported to the police over the last few years².

Key recommendations:

- The Korean domestic legal framework should prohibit the intentional access of child pornography.
- Korean law enforcement authorities in charge of CSEC cases should make greater efforts to prosecute perpetrators of child pornography related offenses. Penalties imposed on offenders should be stringent.
- Develop more awareness-raising initiatives to make sure that children and their families know about the *The Act on the Punishment of Grooming* (2008) and are able to report cases of grooming to relevant authorities.

1.1.2.3 Laws addressing child trafficking

The *Act on the Punishment of Acts of Arranging Sexual Traffic* (2004) is not compliant with the standards set forth in the Trafficking Protocol in relation to the protection of children against trafficking. Under the Act, the harboring, receiving, recruiting, transporting or transferring of a child for the purpose of exploitation will be deemed trafficking only if force or a deceptive scheme is used. However, Article 3 of the Trafficking Protocol expressly stipulates that the acts referred to above shall be considered “trafficking in persons” regardless of the consent of the child and the means used.

With regard to the enforcement of the anti-trafficking legal framework, the rate of convictions of offenders is very low. In 2010, only six individuals were convicted for human trafficking related offenses³.

Key recommendations:

- The Act on the Punishment of Procuring Prostitution and Associated Acts should be urgently amended so that provisions addressing child trafficking are in line with the standards of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.
- Korean law enforcement officials in charge of child trafficking cases should make more efforts in prosecuting traffickers.

1.1.2.4 Laws addressing child sex tourism related offences and extraterritorial legislation

The *Act on the Protection of Juveniles from Sexual Exploitation* and the *Criminal Code* (Article 3: Overseas crime of nationals), provides for extraterritorial jurisdiction over CSEC related offences committed abroad by a national of the Republic of Korea.

² ECPAT International *Global Monitoring Report on the status of action against commercial sexual exploitation of children South Korea – Second Edition*, 2012.

³ U.S. State Department, *Trafficking in Persons Report - 2011*. Accessible at: <http://www.state.gov/j/tip/rls/tiprpt/2011/index.htm>

However, it is not clear whether Korean courts have prosecuted Korean nationals having sexually exploited children in foreign countries⁴.

In 2008, the Republic of Korea enacted an innovative piece of legislation: *The Amendment of Passport Act*. This Act restricts the issuance of passports to nationals who commit offences abroad and potentially confiscates existing passports. However, due to the fact that this Act does not contain specific provisions addressing the commission of sex crimes and, as it only applied to persons deported from foreign countries, its enforcement may not contribute meaningfully to the protection of children against travelling sex offenders.

Key recommendation:

- Korean authorities should make greater efforts to prosecute Korean nationals who sexually exploit children in foreign countries.

1.1.2.5 Specific laws aiming at preventing child sex offenders' re-offending

In 2008, Korea enacted the *Registration and Disclosure of Sex Offenders' Personal Information regulations* under which personal information of registered child sex offenders is made available on the register for 10 years following conviction. The register can be accessed online and offline by directors of educational institutions or parents of minors who live in the same city or county. However, as the register has only been accessible since January 2010, convictions prior to January 2010 are not available⁵.

In addition to the public disclosure of registered child sex offenders' personal information under the *Registration and Disclosure of Sex Offenders' Personal Information Regulations*, the *Act on the Protection of Juveniles from Sexual Exploitation* (2005) places restrictions on the employment of registered child sex offenders. Child sex offenders are prohibited from employment in "schools, private education institutions, facilities for minors, childcare facilities, children's facilities, apartment management offices (i.e. security guard offices), fitness centers, and other institutions frequented by minors' for 10 years following the termination of their sentence." Concerned employers are legally bound to report any incidence of sexual offenses committed on their premises⁶. Therefore, persons in charge of relevant institutions must conduct background checks of potential employees for records of child sexual abuse⁷.

⁴ ECPAT International *Global Monitoring Report on the status of action against commercial sexual exploitation of children South Korea – Second Edition*, 2012.

⁵ Ibid.

⁶ The Consolidated 3rd and 4th Periodic Report to the UN Committee on the Rights of the Child 2008, by the Government of the Republic of Korea. Accessible at: http://www.ecoi.net/file_upload/1930_1303249657_crc-c-kor-3-4-1.pdf

⁷ Choi, Young Hee, "Model laws on CSEC – Korea's Legislation to Combat Sexual Exploitation of Children and Youth" (presentation at ECPAT International Assembly 2011).

Korea also enacted *The Act on the GPS Tracking of Specific Sex Offenders* in 2007, initiating GPS (Global Positioning System) aimed at tracking specific sex offenders including child sex offenders. However, in 2008 it was reported that only 7 out of 574 individuals ordered to wear the electronic tag managed to escape surveillance⁸.

1.2 Policy framework

Korea has established national plans of action (NPA) that address the commercial sexual exploitation of children, notably the 2004 *Comprehensive Plan for Preventing Sex Trafficking* (amended in 2007). However, there is still a lack of a comprehensive National Action Plan that would address all CSEC issues.

In addition, despite the establishment of this Plan of Action and the enactment of the *Act on the Punishment of Acts of Arranging Sexual Traffic*, the Committee on the Rights of the Child is concerned by the high number of children victims of trafficking in Korea and the low rates of prosecution and conviction of offenders⁹.

Key recommendation:

- Korean authorities should ensure that current national plans of action addressing CSEC related issues are consistent and are coordinated effectively to avoid any gaps or duplication of efforts.

2. Promotion and protection of human rights on the ground: implementation of international human rights

2.1 Key areas of concern with regards to the implementation of children's rights laws and policies addressing commercial sexual exploitation on the ground

2.1.1 Lack of independent mechanism to monitor the implementation of the Convention on the Rights of the Child and the OPSC.

In 2006, Korea established the Korean Monitoring Center for Children's Rights (KMCCR) aimed at monitoring the implementation of the Convention on the Rights of the Child and its Optional Protocols. However, the Committee on the Rights of the Child has highlighted the KMCCR's lack of independence and operational mechanism to monitor the Convention¹⁰.

Key recommendation:

⁸ Korea NPO Coalition for UNCRC. Alternative Report Following the 3rd and 4th Periodic Report from the Republic of Korea on the Implementation of the Convention on the Rights of the Child. Accessible at: www.crin.org/docs/RoK_KNPOCCRC_CRC_Report_FINAL.doc.pdf

⁹ Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Republic of Korea, February 2012. Accessible at: http://www2.ohchr.org/english/bodies/crc/docs/co/CRC_C_KOR_CO_3-4_en.pdf

¹⁰ Ibid.

- The Committee on the Rights of the Child recommends that Korea clearly define the legal status of the KMCCR, with the objective of providing it with a clear mandate.

2.1.2 Lack of/limited available assistance and support services for child victims

Under the *Act on the Punishment of Procuring Prostitution and Associated Acts*, victims are eligible for compensation and access to care and support services.

Child victims of CSEC have access to care and support in several shelters and institutions established for them such as national youth shelters, help centres for victims of sex-trafficking and youth counselling Centres. In particular, the government has established 10 “Sunflower Children Centres” that provide specific assistance to child victims of sexual abuse. The government has also established 15 “One-Stop Support Centres” that provide comprehensive medical and psychological treatment to victims of child sexual abuse, school violence and sex trafficking.

Despite the fact that the establishment of such shelters and care and assistance services is a real step forward, the Committee on the Rights of the Child recently pointed out the lack of rehabilitation services for boy victims of sexual exploitation¹¹.

Key recommendation:

Ensure that both boy and girl victims of sexual exploitation have equal access to rehabilitation services (medical and legal assistance, counselling, education and training) that adequately address their specific needs.

¹¹ Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Republic of Korea, February 2012. Accessible at: http://www2.ohchr.org/english/bodies/crc/docs/co/CRC_C_KOR_CO_3-4_en.pdf