

The statement of ECPAT Korea(Tacteen Naeil)/ECPAT International On the End of Sexual Exploitation of Children in ROK

MADAME CHAIR, THIS STATEMENT IS MADE ON BEHALF OF ECPAT KOREA(TACTEEN NAEIL) AND ECPAT INTERNATIONAL

Introduction

In Korea, known as a world leader in information and communications technologies, children are groomed and sexually exploited online. However, Korean law treats sexually exploited children as criminals, not as victims.

In 2000 the government adopted the **Act on the protection of children and juvenile against sexual abuse**. Since then the General Assembly and civil society organizations have made several proposals to improve the Act in favor of the child victim with no success as these proposal were repeatedly rejected by the Ministry of Justice.

1. Loophole of legal framework & law enforcement system and resource

Civil society group have constantly advocated judicial reformⁱ as a key factor to end of sexual exploitation of children in Korea.

For instance, 13-year-old child victim with intellectual disability sexually assaulted by 6 men. In the court case which follows ruled that she was as “sex seller”. With the reason being that the offenders gave some snacks and chicken to the child victim: Indeed, the judge considered in the ruling that the victim was paid.

Another example is the case of a police officer who, using chatting application, sexually exploited a child during his working hours and exercise treats tactic to repeat his crime several times. This law enforcement agent was only sentenced with a minor fine when the case was brought to court.

These examples are just two cases of the many that occur in Korea, illustrating common pattern of child sexual exploitation in the country and the impunity within the judicial in face the crime.

The term of ‘children or juveniles involved’ and the ‘protective dispositions’, included in the Act on the protection of children and juvenile against sexual abuse, criminalizes and allow for punishing of children rather than protecting them as victim. Indeed this provide also allows the judiciary system to blame child victims of a crime rather than understanding their vulnerability in face of this crime of sexual exploitation both on line and off line.

Some of the keys consequence of the above loophole in system is that: child victims are reluctant to report to law enforcement because they fear stigmatization and punishment; they are pushed back into the streets because they cannot get legal assistance from public defender; they are not accepted in child care facilities.

In the investigation process, children victim of sexual exploitation through pornography are asked repeatedly to prove that they are not voluntary “sex seller” and are questioned as to why they did not escape from the situation. Some of them choose to commit suicide because of the immense stress of the stigma and re-victimization including in school, repeated police questioning, and threat from offender.

Loopholes in the judicial system have accelerated expansion of problems including: the boom enjoyed by sex industry in Korea; lack of credibility in and derision of the laws in place; the influx of sexual exploitation of children through trafficking and online is neglected by the government with no

comprehensive legal protection system; and in the lawyers and child predators websites offenders can find advise on how to by pass the law.

2. Overseas SEC by Korean

The overseas problem is no different from domestic's. For example, 7 Koreans who were arrested in the Philippines and charged with human trafficking under the Philippines "trafficking in person" law, were all acquitted when they returned to Korea for lack of evidence.

SEC by Korean threaten the lives of "at risk" children, their family and community in Asia, because of lack of awareness on human trafficking and impunity. A recent research in the Philippine found a 15-year-old girl who is a single mother of one year old boy. The girl met Korean man online; he groomed her, sexually exploited her and she became pregnant. The man in meantime had disappeared.

The Korea government is aware of many of this crime but has not taken a comprehensive action to address the issue.

In view of the above we would like to request the Committee to make the following recommendations to the Government:

3. KEY RECOMMENDATIONS

- Remove 'children or juveniles involved' in the article 2.7 and 'protective disposition(s) in the article 38~40 of the Act on the Prevention of Children and Juveniles from Sexual Abuse and formulate the comprehensive protection system including the victims of SEC.
- Harmonise the legal framework on human trafficking, notably by adopting consistent definitions and stringent penalties for SEC offenders, and illegal adoption of children.
- Conduct adequate training of prosecutors and law enforcement officials on the characteristics of the SEC offence.
- Amend the Extradition Actⁱⁱ to specifically include SEC-related crimes as extraditable offences and remove the dual criminality requirement. The purpose of the requested amendment is to establish extraterritorial jurisdiction over foreign offenses committed against children within the ROK, as well as offenses committed overseas by Korean nationals.
- Adopt specific provisions to define and criminalize online grooming
- Enact the definition of "technical measures" to protect children from online sexual exploitation, and take legislative measures to punish, and impose exemplary damages on corporations who do not implement such measures.
- Raise the age of statutory rape from 13 in line with the CRC definition of the Child
- Take legislative or other measures to enforce liability of Tourism and travel as well as ICT industries to end of SEC.

ⁱ 346 NGOs hold press conference on the protest against the Ministry of Justice for blocking the revision of law for the victim of CSE. 18 January 2019 in front of National Assembly. Seoul.

ⁱⁱ Its article 6 states that an offence can only qualify as extraditable if the requirements of double criminality and minimum gravity are met. In addition, extradition can be denied if the offender is a citizen of the ROK(article 9)