

# **The Report of ECPAT Korea(Tacteen Naeil) to enhance the impact of the mandate on the Sexual Exploitation of Children in ROK**

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

In 2000 the government adopted the **ACT ON THE PROTECTION OF CHILDREN AND YOUTH AGAINST SEX OFFENSES**. Since then, the General Assembly and civil society organizations have made several proposals to improve the Act in favor of the child victim; however, due to the repeated rejections from the Ministry of Justice, there has been no successful amendment until 2019.

Recently in July 2019, the Ministry of Justice passed an amendment on the ACT ON THE PROTECTION OF CHILDREN AND YOUTH AGAINST SEX OFFENSES(Article 8.2), adding the definition that it is punishable if anyone older than 19 has sexual relations with a child between 13~16 using the child's difficult situation. The amendment was to protect children older than 13(which is the limit of Korea's age of consent), but unlike the government's expectation, the new article brought another argument due to its limited protection over children "under difficult situation."

The government has been very passive on raising the age of consent and changing the term 'involved children' and 'protective dispositions' in the ACT ON THE PROTECTION OF CHILDREN AND YOUTH AGAINST SEX OFFENSES. The term used in the Act categorizes sexually abused juveniles into two different types: offender children who 'willingly' participated prostitution-because they received any payment(food, money, place to sleep, etc.), and the other, victim children who were forced into sex offenses). The Ministry of Justice claimed that any hast change of the law(ex. raising age of consent or changing the term accusing a child victim as offender) might cause *lack of control over sex offenses committed by juveniles*.

Such misconception and obscure definition of children allow the judiciary system to blame child victims when it has to understand children's vulnerability in the face of sexual exploitation and protect them from the real predators. Due to the loopholes of legal framework, many children victims are afraid to report sexual abuse because they fear stigmatization and punishment. And they are pushed back into the streets without any proper protection.

For the better protection system for children, the government must understand the definition of *Grooming*, the vulnerability of children in sex offenses, and the consequences of the low age of consent which provides excuses for the adult offenders.

## **2. Recommendations to enhance the impact of the mandate**

To enhance the impact of the mandate, we ask you to strongly discuss Korean judiciary system's loopholes and misconceptions on sexually exploited children. So we can:

1. Remove 'children or juveniles involved' in the article 2.7 and 'protective dispositions(s)' in the article 38~40 of the ACT ON THE PROTECTION OF CHILDREN AND YOUTH FROM SEX OFFENSES and formulate the comprehensive protection system.

2. Remove ‘using the child’s difficult situation’ in the article 8.2 of the ACT ON THE PROTECTION OF CHILDREN AND YOUTH FROM SEX OFFENSES to protect all children regardless of their economic or social situation
3. Adopt specific provisions to define and criminalize online/offline grooming

\*\*There are many other problems in Korea, such as child pornography or overseas SEC, but currently, ECPAT Korea is focusing on the issue mentioned above. So hopefully, the mandate can influence the government to focus and change the issues.

Thank you.

