

## **Questions by the Special Rapporteur on the sale and sexual exploitation of children**

The report of the Special Rapporteur on the sale and sexual exploitation of children will explore how the COVID-19 crisis threatens to further erode the situation of children most vulnerable to sale and sexual exploitation. The report will focus on identifying push and pull factors, scaling up good practice, and providing recommendations on the measures to address the heightened risks of sale and sexual exploitation of children, during and in the aftermath of the pandemic. The recommendations of the report will seek to: operationalize the pledges made under Agenda 2030 as far as they relate to SDG targets 5.3, 8.7 and 16.2. and ensure implementation of effective child protection responses arising in the context of emergencies.

1. What is the impact of COVID-19 crisis on the nature and scope of various manifestations of sale and sexual exploitation of children, including sexual exploitation and abuse of children, both online and offline; child marriage; trafficking of children; surrogacy and sale of children; illegal adoptions and child labour?
  - What are the new forms and manifestations of sale and sexual exploitation of children in the context of COVID 19 crisis?

Child predators are using social media platforms such as Facebook, Twitter, Instagram, Telegram, etc. to seek out and contact victims. Since the usage of internet and social media has increased due to COVID 19 (for both children and adults), it is likely that the online grooming and sexual exploitation of children are increasing. In fact, ECPAT Korea's Hot-line is receiving more calls related to online sexual abuse or exploitation (including grooming) after the COVID 19. (However, it can also be a result of Nth room case)

Teenage girls are using the Twitter to upload their pictures and videos, and it can be sexual sometimes. The anonymous accounts called 'Il-tal-gae', which means 'accounts for deviation', are made by teenage girls; and they upload body pictures and sexual videos using the account. And adult males send private messages and comments to them, and sometimes ask for off-line meeting. And even for non-sexual twitter accounts, adults approach to young girls with kind comments and messages. Then they ask for Line IDs for private chat. After the usage of internet has been increased after the COVID 19 (since many people have to stay home doing nothing but the internet), the supervision and protection of children's online activities became more difficult. (\*\*God-god, the builder and operator of Nth room, targeted his victims using the 'Il-tal-gae')

- What are the key trends and accelerators in the context of the pandemic that may increase children's vulnerability to the sale and sexual exploitation?

**Sexual exploitation/abuse of children:** After the COVID19 crisis broke out, all schools, academies, community centres including child counselling centres were closed in order to prevent infection of COVID 19. Until May 2020, all school materials were provided online and children were recommended to stay home. Such measures did prevent infection among children and kept the number of infection among children very low. However, it is concerning that the danger of sexual exploitation/abuse of children within the family may be increasing since children have to stay home and other responsible adults(who are obligated to report when witness any child abuse such as teachers, counsellors, doctors) cannot contact them directly.

Also, during the social distance order, providing counselling service for victim children was very difficult. Especially, for victims of Nth room case, the victims desperately needed the support, but the physical contact was prohibited – thus, they did not receive full support like they should have.

The Social distance is a good measure to prevent COVID 19, but it also interrupts child's right to be protected.

2. What essential protection measures, , including identification, reporting, referral and investigation, have been put in place to detect and prevent child sexual abuse and exploitation cases and how effective have they been since the outbreak?

There have been many prevention methods and reporting system established after the COVID 19 outbreak, but it is hard to clearly confirm that the COVID 19 was the only reason for such measures. In Korea, the Nth room case was disclosed right after the COVID 19 outbreak – March 2020 - , and both Nth room case and COVID 19 influenced Korean government and NGOs' reaction regarding sexual abuse/exploitation of children.

But it is true that few protection measures are provided and it does help reporting, preventing, and responding the sexual exploitation of children.

1) **Promoting Online Child Sexual Exploitation Support:** there is a new system applied in ‘NAVER,’ one of the most used web platforms in Korea, which provides contact information related to child abuse and sexual exploitation when you search for ‘sexual exploitation’. It makes reporting process easier for the victims (easy access) and it encourages victims to report and receive help from social service agencies. Detailed information and direct links to service centres provide options for victims. And it uses easy vocabularies, so children can use it as well.

When you search “sexual exploitation”

“Sexual violence prevention campaign” is automatically searched. It includes links for “Prevention and Education”, “Reports”, and “Counselling and Support”

- 2) **Expanded Hot-line services for victims of sexual exploitation:** since providing a direct counselling service for children is difficult due to COVID 19, ECPAT Korea has expanded the Hot-line service (longer operating time and more staffs). Using the Hot-line, we provide counselling service for children and their parents. In case of emergency, children can call and get immediate help; or children can call for advice regarding sexual topics. During the COVID 19, children asked a lot about online sexual materials (watching the obscene material, uploading their pictures, adults approaching to them, curiosity on sexual relationship, questions on sexual fantasies that they witnessed online, etc.). We believe that the increased number of call is due to both COVID 19 and Nth room – the awareness on Online sexual exploitation is increased, and children are spending a lot more time on internet.
- 3) **Free Online education sessions:** Because of COVID 19, most of sexual education and prevention programs for both children and adults were delayed. In Korea, all child-related positions must take required programs for ‘duty to report(must report when witness a child abuse)’. And sexual education for children and their parents are provided all year round. Education programs for sexually deviant children are also provided by ECPAT Korea. However, such education programs require physical present and direct meetings, so we changed method for the programs from off-line to on-line. Education programs are recorded and videos are uploaded in child-related websites – Education Department, child protection NGOs, etc. And all materials are provided without costs.
- 4) **Government’s new programs:** Korean Department of Education has stated that a new sexual education program will be planned and applied to raise child’s gender sensitivity.

3. Have there been any initiatives on collecting disaggregated data on specific forms and manifestations of sale and sexual exploitation of children during the pandemic and assessing the near and long-term impacts of COVID-19?

Just Statistical research on the change on the child abuse; no studies on the specific forms and manifestations of sale and sexual exploitation of children. Possible research is conducted by Korean Institute of Criminology and Police Department, but no result was made yet. (Usually researches are annual, so we may need to wait till the end of 2020)

4. Please, share information about challenges faced in the provision of undisrupted healthcare, education and legal aid, as well as care recovery and reintegration services for the victims in the context of the outbreak.

It is difficult to provide all services mentioned above, because:

- 1) unreported cases are increasing due to COVID 19;
- 2) people avoid visiting hospital and the SunFlower centers (one-stop victim support center operated by the Government) are placed in the hospital (mentioned in the law);
- 3) direct counselling was prohibited due to the ‘social distance order’ from March to May;
- 4) Staffs working in the recovery/reintegration service centres had to do self-quarantine due to the pandemic, and the work process has been delayed;
- 5) To provide national financial service for all citizens in order to recover economic damage by COVID 19, the government had to cut down budgets for other services such as victim support; and

6) government's and the public's interest is focused on biological and medical issues due to COVID 19 – and disregard 'less serious' issues such as victim support services.

5. Have there been examples of innovative solutions to ensure effective functioning of child protection and justice systems that are resilient, adaptable and able to withstand the next crisis?

They are mentioned in the Question 2.

6. How relevant and functional were the existing legal frameworks dealing with prohibition, prosecution, protection, care, assistance and prevention in relation to all forms of physical, mental and sexual violence against, exploitation and neglect of, and harmful practices in relation to children?

Providing support system is well-written in the law (prevent secondary victimization, legal frameworks for victim support centre "Sunflower centre", etc.), but sometimes the law enforcement officer or other professional that the child meets during the legal process lack in their experience or knowledge. Thus, the secondary victimization can happen during the process. Also, the prosecution process is not written in detail, or does not include current culture, thus the legal framework cannot properly deal with the current crimes of child abuse – especially sexual exploitation of child.

For example, the Welcome2Video case was not properly handled because there was no fitting law for such case. The Nth room case was not appropriately treated neither, and the offenders did not receive enough punishment. After such cases of improper legal treatment of offenders, the public raised issues of amending the laws related to sexual exploitation of children, and the government decided to change the legal framework (May 2020 – so called "Nth room prevention law" was passed by the government). (Please refer to the attached file: "Countermeasure report \_doc.")

## CHAPTER V CHILD VICTIM PROTECTION ORDERS

**Article 46 (Jurisdiction over Child Victim Protection Order Cases)**

(1) Child victim protection order cases shall be under the jurisdiction of a family court having the jurisdiction over the place of activities, residence, or current place of a child abuse offender and the residence or current place of a child victim: Provided, That child victim protection order cases shall be under the jurisdiction of the district court of the relevant region in cases of a region where no family court is established.

(2) Child victim protection order cases shall be examined and ruled by a judge.

**Article 47 (Child Victim Protection Orders by Family Court)**

(1) A judge may issue any of the following child victim protection orders for the protection of child victims by ruling, either ex officio or upon request of a child victim, his/her legal representative, attorney-at-law, or the head of a specialized child protection agency:

1. Isolation of a child abuse offender from a child victim, including evacuation, etc. from the residence of a child victim or a room occupied by him/her;
2. Restriction on the access of a child abuse offender to a child victim or his/her family members;

3. Restriction on the access of a child abuse offender a child victim or his/her family members through telecommunications defined in subparagraph 1 of Article 2 of the Framework Act on Telecommunications;
4. Entrusting a child victim to child welfare facilities or welfare facilities for disabled persons for protection;
5. Entrusting a child victim to medical institutions for treatment;
6. Entrusting a child victim to his/her relatives, etc. for foster care;
7. Restriction on or suspension of the exercise of parental authority over a child victim by a person having parental authority who is a child abuse offender;
8. Restriction on or suspension of the exercise of guardian's authority over a child victim by a guardian who is a child abuse offender;
9. Decision in substitution for the expression of will by a person having parental authority or a guardian.
  - (2) Dispositions specified under paragraph (1) may be taken concurrently.
  - (3) Where a judge issues a child victim protection order under the subparagraphs of paragraph (1), a child victim, his/her legal representatives, attorney-at-law, or the head of a specialized child protection agency may offer their opinions to the competent court.
  - (4) Where a judge issues a child victim protection order under paragraph (1) 7 or 8, Article 23 shall apply mutatis mutandis to the appointment of a person who shall temporally conduct the duties of guardian during the period of the child victim protection order, etc.
  - (5) Standards for child welfare facilities, medical institutions, relatives, etc. to which a child victim can be entrusted under paragraph (1) 4 through 6, the procedures for entrustment, the implementation of entrustment, and other necessary matters, shall be prescribed by Supreme Court Regulations.

**Article 47 (Child Victim Protection Orders by Family Court)**(1) A judge may issue any of the following child victim protection orders for the protection of child victims by ruling, either ex officio or upon request of a child victim, his/her legal representative, attorney-at-law, or the head of a specialized child protection agency: [<Amended by Act No. 15255, Dec. 19, 2017>](#)

1. Isolation of a child abuse offender from a child victim, including evacuation, etc. from the residence of a child victim or a room occupied by him/her;
2. Restriction on the access of a child abuse offender to a child victim or his/her family members;
3. Restriction on the access of a child abuse offender a child victim or his/her family members through telecommunications defined in subparagraph 1 of Article 2 of the Framework Act on Telecommunications;
4. Entrusting a child victim to child welfare facilities or welfare facilities for disabled persons for protection;

5. Entrusting a child victim to medical institutions for treatment;
- 5-2. Entrusting a child victim to a specialized child protection agency, counseling center etc., for counseling and treatment;
6. Entrusting a child victim to his/her relatives, etc. for foster care;
7. Restriction on or suspension of the exercise of parental authority over a child victim by a person having parental authority who is a child abuse offender;
8. Restriction on or suspension of the exercise of guardian's authority over a child victim by a guardian who is a child abuse offender;
9. Decision in substitution for the expression of will by a person having parental authority or a guardian.
  - (2) Dispositions specified under paragraph (1) may be taken concurrently.
  - (3) Where a judge issues a child victim protection order under the subparagraphs of paragraph (1), a child victim, his/her legal representatives, attorney-at-law, or the head of a specialized child protection agency may offer their opinions to the competent court.
  - (4) Where a judge issues a child victim protection order under paragraph (1) 7 or 8, Article 23 shall apply mutatis mutandis to the appointment of a person who shall temporally conduct the duties of guardian during the period of the child victim protection order, etc.
  - (5) Standards for child welfare facilities, medical institutions, specialized child protection agencies, counseling centers, relatives, etc. to which a child victim can be entrusted under paragraph (1) 4, 5, 5-2 and 6, the procedures for entrustment, the implementation of entrustment, and other necessary matters, shall be prescribed by Supreme Court Regulations. [<Amended by Act No. 15255, Dec. 19, 2017>](#)
- (6) When a judge issues a child victim protection order under paragraph (1) 5-2, he/she may have a protector of the victim participated in the procedure if he/she deems necessary. [<Newly Inserted by Act No. 15255, Dec. 19, 2017>](#)

**Article 48 (Assistants)**

- (1) A child victim and a child abuse offender may appoint an assistant, respectively, with regard to a child victim protection order case.
- (2) The legal representative, spouse, lineal relatives, or siblings of a child victim or a child abuse offender, the head or counselors of a specialized child protection agency, or attorney-at-law referred to in Article 16 shall be eligible as an assistant.
- (3) Where a person who is not an attorney-at-law (referring to an attorney-at-law under the Attorney-at-Law Act; hereafter in Article 49, the same shall apply) is to be appointed as an assistant pursuant to paragraph (2), permission therefor from a court shall be granted.
- (4) A judge may cancel permission granted under paragraph (3) at any time.
- (5) The appointment of an assistant pursuant to paragraph (1) shall be submitted to each instance of court in writing which shall include the name and seal of the assistant.

(6) A person who intends to become an assistant under paragraph (2) shall file a report on such intention with each instance of court. In such cases, a document certifying the status relationship between a person who intends to become an assistant and a child victim or child abuse offender or a document of presumptive proof as to the position of a person who intends to become an assistant shall be attached thereto.

(7) An assistant under paragraph (1) may independently conduct procedures, and an assistant under paragraph (2) may independently conduct procedures which do not contravene the expressed will of a child victim or child abuse offender: Provided, That the foregoing shall not apply where other provisions exist in Acts.

**Article 49 (Court-Appointed Assistants)**(1) In any of the following cases, a court may appoint an attorney-at-law as an assistant of a child victim, either ex officio or by ruling upon request of a child victim, the legal representative, lineal relatives or siblings thereof, or the head or counselors of a specialized child protection agency:

1. When a child victim is suspected of having a physical or mental disorder;
2. When an assistant cannot be appointed due to poverty or other reasons;
3. In other cases where a judge recognized that an assistant is needed.

(2) Where a child abuse offender falls under any of the subparagraphs of Article 33 (1) of the Criminal Procedure Act, a court may ex officio appoint an attorney-at-law as an assistant of a child abuse offender.

(3) The Criminal Procedure Costs Act shall apply mutatis mutandis to expenses paid to an assistant appointed pursuant to paragraphs (1) and (2).

**Article 50 (Execution, Revocation, and Alteration of Child Victim Protection Orders)**(1) Where a judge of the competent court issues a child victim protection order under Article 47 (1) 1 through 6, he/she may assign home protection case investigators, court officials, judicial police officers, or correctional public officials of a detention center to execute the order, or delegate the execution to the Special Metropolitan City Mayor, Metropolitan City Mayor, Special Self-Governing City Mayor, Do Governor, Governor of a Special Self-Governing Province, or the head of a Si/Gun/Gu.

(2) A child victim, his/her legal representative, attorney-at-law, or the head of a specialized child protection agency may apply for the revocation of a protection order prescribed in Article 47 (1) or the change of the type of the order.

(3) A judge may revoke the relevant child victim protection order or change the type of such order, when he/she deems that there are justifiable grounds to do so, either ex officio or by ruling upon the request under paragraph (2).

**Article 50 (Execution, Revocation, and Alteration of Child Victim Protection Orders)**(1) Where a judge of the competent court issues a child victim protection order under Article 47 (1) 1 through 5, 5-2 and 6, he/she may assign home protection case investigators, court officials, judicial police

officers, or correctional public officials of a detention center to execute the order, or delegate the execution to the Special Metropolitan City Mayor, Metropolitan City Mayor, Special Self-Governing City Mayor, Do Governor, Governor of a Special Self-Governing Province, or the head of a Si/Gun/Gu. [\*\*<Amended by Act No. 15255, Dec. 19, 2017>\*\*](#)

(2) A child victim, his/her legal representative, attorney-at-law, or the head of a specialized child protection agency may apply for the revocation of a protection order prescribed in Article 47 (1) or the change of the type of the order.

(3) A judge may revoke the relevant child victim protection order or change the type of such order, when he/she deems that there are justifiable grounds to do so, either ex officio or by ruling upon the request under paragraph (2).

[\*\*< <Enforcement Date : Jun. 20, 2018>>\*\*](#) Article 50

**Article 51 (Period of Child Victim Protection Orders)**(1) No period of a child victim protection order issued pursuant to Article 47 (1) 1 through 5, 5-2 and 6 through 8 shall exceed one year: Provided, That where the extension of a period is deemed necessary for the protection of a child victim, a judge of the competent court may extend the period by three months each time, either ex officio or by ruling upon request of a child victim, his/her legal representative, or attorney-at-law.

(2) Where a court extends a period pursuant to paragraph (1), no total period of a child victim protection order shall exceed four years.

**Article 51 (Period of Child Victim Protection Orders)**(1) No period of a child victim protection order issued pursuant to Article 47 (1) 1 through 5, 5-2 and 6 through 8 shall exceed one year: Provided, That where the extension of a period is deemed necessary for the protection of a child victim, a judge of the competent court may extend the period by three months each time, either ex officio or by ruling upon request of a child victim, his/her legal representative, or attorney-at-

law. [\*\*<Amended by Act No. 15255, Dec. 19, 2017>\*\*](#)

(2) Where a court extends a period pursuant to paragraph (1), no total period of a child victim protection order shall exceed four years.

[\*\*< <Enforcement Date : Jun. 20, 2018>>\*\*](#) Article 50

**Article 52 (Ad Hoc Protection Orders for Child Victims)**(1) Where a request for a child victim protection order prescribed in Article 47 is made, a judge of the competent court may take a measure falling under any subparagraph of Article 47 (1) temporarily (hereinafter referred to as “ad hoc protection order”) by ruling if deemed necessary for the protection of a child victim.

(2) The period of an ad hoc protection order shall be until a child victim protection order is determined: Provided, That a judge may limit a period if deemed necessary.

(3) Where a judge issues an ad hoc protection order under Article 47 (1) 7 and 8, Article 23 shall apply mutatis mutandis to the appointment, etc. of a person to temporally conduct the duties of guardian during the period of an ad hoc protection order.

(4) Article 50 shall apply mutatis mutandis to the execution, revocation, or alteration of an ad hoc protection order. In such cases, "child victim protection order" shall be construed as "ad hoc protection order".

**Article 53 (Investigations of Current Status of Compliance)**(1) The competent court may have home protection case investigators, court officials, judicial police officers, probation officers, etc. frequently investigate the current status of compliance with an ad hoc protection order and a child victim protection order, and report the results thereof without delay.

(2) Where a child abuse offender subject to an ad hoc protection order and a child victim protection order fails to comply therewith or cooperate with execution thereof, the competent court may notify it to a prosecutor of the public prosecutors' office corresponding to the competent court.

**Article 54 (Concurrent Examination)**

A court may concurrently examine a child victim protection order case and a child protection case when there is a need for concurrent examination as cases in question are deemed related to each other.

**Article 55 (Training for Specialized Child Protection Agencies)**

The head of a related administrative agency shall provide training to employees of specialized child protection agencies in relation to professional knowledge necessary for an investigation into child abuse cases, investigative methods for the protection of child victims, etc.

**Article 56 (Application Mutatis Mutandis)**

With respect to the investigation and examination of child victim protection order cases, Articles 19 through 22, 30 through 32, and 34 through 36 of the Act on Special Cases concerning the Punishment, etc. of Crimes of Domestic Violence shall apply mutatis mutandis. In such cases, "home protection case" shall be construed as "child protection case," "domestic violence offender" shall be construed as "child abuse offender," "victim" shall be construed as "child victim," "domestic violence crime" shall be construed as "child abuse crime," and "protective order" shall be construed as "child victim protection order," respectively.

**Article 57 (Complaints and Further Complaints)**(1) With respect to a child victim protection order (including a decision of extension under Article 51) prescribed in Article 47 and its revocation or a change of its type under Article 50 or an ad hoc protection order prescribed in Article 52 and its revocation or a change of its type, if any statute is violated to an extent that affects such decision, a serious mistake is made in determining relevant facts, or such decision is considerably unfair, a child victim, child abuse offender, legal representative, attorney-at-law, the head of a specialized child protection agency, or assistant may file a complaint with the collegiate division of a family court: Provided, That where no family court is established, a complaint shall be filed with the collegiate division of the relevant district court.

(2) Where a judge dismisses a request for a child victim protection order, a child victim, his/her

legal representative, attorney-at-law, or the head of a specialized child protection agency may file a complaint. In such cases, paragraph (1) shall apply mutatis mutandis to a court of appeal.

(3) Articles 49 (3) and 50 through 53 of the Act on Special Cases concerning the Punishment, etc. of Crimes of Domestic Violence shall apply mutatis mutandis to a complaint and a further complaint of a child victim protection order, etc. under paragraphs (1) and (2).

#### **Article 58 (Provisions for Delegation)**

Necessary matters concerning the investigation and examination of child victim protection cases shall be prescribed by Supreme Court Regulations.

7. Has there been a surge of resource allocation, actions plans or coordination mechanisms, prevention and response services for the protection of children from all forms of violence, abuse and exploitation?

No, there has been no action taken regarding that issue. Responding child abuse or sexual exploitation is not a primary issue for now. The government is more focusing on medical resources and economic plans to response and recover from COVID 19.