Sexual Exploitation of Children in New Zealand
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ECPAT New Zealand was formed in 1993. Its earlier focus on public awareness-raising on CSEC issues, law reform and advocacy has expanded to include Internet safety initiatives and research and community education on child protection, child prostitution, child pornography and child sex tourism. Through legal submissions, media releases, interviews and public debate, ECPAT NZ has ensured that CSEC issues are addressed in law reform in the context of prostitution and child pornography.
A number of research papers by ECPAT NZ have been published, including papers on the involvement and victimisation of children in commercial sexual activity. ECPAT NZ works within an Auckland network on the prevention of child prostitution, involving practitioners, social services, police, local councils and youth advocates. The network provides opportunities for the exchange of information, collaboration and joint action.

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ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 26 years, ECPAT has acted as the international watchdog, monitoring States’ response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 104 network members operating in 93 countries.
Justification for Submission

1. The present submission is an update to review the progress that has been made by the Government of New Zealand to end sexual exploitation of children (SEC) and assess the level of implementation of the UPR recommendations, pertaining to SEC, made in 2014. New recommendations to end SEC in New Zealand will be made. The recommendations made in this report are in line with the commitment made by the Government to eliminate all forms of violence against children, including sexual abuse and exploitation with the adoption of the 2030 agenda for Sustainable Development in 2015.

2. The content of this report is mostly based on ECPAT Child ALERT’s research and work experience.

3. The scope of this report is limited to SEC and its different manifestations, including exploitation of children in prostitution, online child sexual exploitation (‘OCSE’), child sexual abuse materials (‘CSAM’), trafficking of children for sexual purposes, sexual exploitation of children in the context of travel and tourism (‘SECTT’) and child, early and forced marriage (‘CEFM”).

Current status and development of children rights in New Zealand

4. New Zealand is a politically stable country. The Labour Government formed a coalition government with the center-right New Zealand First party and the Green Party following the September 2017 election, ousting the National Party, which had been in power since 2008. The Labour government is pursuing a social welfare agenda, which includes tax benefits for low income earners and a tighter regulatory environment in housing and industrial relations.

5. The total population in New Zealand was estimated at 4.8 million people in 2017, according to the latest census figures. Unfortunately children are not faring as well as expected. According to UNICEF, approximately 12% of New Zealand children are living in material hardship and 27% of New Zealand children are living beneath the income poverty line, leaving many unable to experience the basics that many New Zealanders take for granted. On average, a New Zealand child dies every five weeks as a result of violence. Children under 12 months old make up the majority of this statistic, and 90% of the time they have been killed by a parent or family member. 20% of girls and 9% of boys in New Zealand report unwanted sexual touching or being forced to do sexual things.

6. Concerning the causes of sexual exploitation, a recent study conducted by ECPAT mentions that there is evidence that parents play an instrumental role in the involvement of children in prostitution and sexual exploitation. This study also indicated that indigenous children in New Zealand appear to be at a higher risk than the general population of children. This has been attributed to higher levels of poverty, abuse and neglect and poor educational outcomes. Girls are generally more affected than boys.

8. Based on the findings and concerns raised in this report, ECPAT believes that the Government of New Zealand has not sufficiently followed up Iran’s recommendation to “take necessary measures in order to prevent and combat sexual exploitation and abuse of vulnerable people, especially girl children.”

**Data collection on child sexual exploitation**

9. It was estimated, in 2010, that up to 200 under 18-year-olds were working in the sex industry,\(^{13}\) and it is likely that those numbers have increased since then. The current numbers are however complicated to establish as there is no official statistics regarding the percentage of children victim of **sexual exploitation in prostitution** in Aotearoa/New Zealand, who may be controlled through coercion, force, or deception by people considered ‘exploiters’.\(^{14}\)

10. Regarding cases of **OSCE**, while there is no official data, according to the Netsafe 2018 report, “7 in 10 teens in New Zealand have experienced at least one type of unwanted digital communication in the past year”.\(^{15}\) Evidence also shows that girls are more likely than boys to be the target of online behaviours such as being asked for nude pictures or videos of themselves (Netsafe, 2017).

11. While there is no centralised collection of data on **early and forced child marriage**, as it is reflected in the UNICEF 2017 Report on the State of the World’s Children, almost 800 girls under 18 were actually married in New Zealand, in contrast to 200 boys, in the last 15 years, and women's rights activists believe a number of those marriages were forced marriages.\(^{16}\) While a child between 16 and 18 years old can legally contract a marriage, upon parental approval,\(^{17}\) it is believed that a number of these marriages are actually forced by the parents.\(^{18}\) The practice concerns girls both from New Zealand and from overseas countries, the latter category being allowed to enter the country under a partnership visa.

12. Drawing upon these findings, ECPAT Child ALERT New Zealand is concerned at the lack of information regarding the number of cases specifically related to the Optional Protocol that have been investigated as there continues to be a lack of a comprehensive system for collecting disaggregated data on areas covered by the Optional Protocol, in particular the sale of children and exploitation of children in prostitution. This seriously hinders the possibility to adapt effective strategies and the ability to monitor them.

**Recommendation**

- Develop a comprehensive system of data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol, including on the sale of children and child prostitution.

**Legislative framework**

13. Domestic legislation does not fully incorporate all offences under the Optional Protocol and is not harmonized. Definitions of **trafficking** and exploitation appears to be ambiguous and outdated, and trafficking is commonly conflated with other phenomena such as sex work, sexual violence, or family violence.\(^{19}\) This has also been reflected by the New Zealand Prostitutes Collective who believe that trafficking, sex work and child sexual abuse appear to be conflated.\(^{20}\) In addition, New-Zealand’s legislation related to trafficking is limited to international movements while the OPSC also includes in the definition of human trafficking internal movements.
14. While noting that the **Prostitution Reform Act (2003)** establishes the prohibition to use and assist persons under 18 for prostitution, ECPAT Child ALERT NZ is concerned that there is no definition of child prostitution in line with article 2 (b) of the Optional Protocol, and covering all the acts prohibited under the Protocol. The Prostitution Reform Act (2003) purports to create a framework for the sex industry with licensed brothels operating under strict health, safety and employment guidelines that: “safeguards the human rights of sex workers and protects them from exploitation and prohibits the use of persons of under 18 years of age in prostitution”. However, ECPAT Child ALERT NZ notes that measures to maintain the prohibition of the exploitation of children in prostitution to be widely lacking.

15. Regarding **SECTT**, Section 144C of the Crimes Act on “organising or promoting child sex tours” inserted in 1995, criminalises any travel arrangements or transporting in order to promote child sex tours. The arrangements include the purchase or reservation of tickets for travelling outside of New Zealand or of accommodation in a country outside of New Zealand. The law in New Zealand covers international sexual exploitation of children but leaves a gap for domestic sexual exploitation.

16. The Films, Videos, and Publications Classification Act 1993 completely outlaws all forms of **child pornography**.

17. **Child marriage** is also prohibited. The legal age to marry in New Zealand is 18 years old. However, if the parents consent to the marriage, a child above 16 has the possibility to get married. This exception is problematic considering many children engaged before their 18 have actually been coerced by their parents. In this respect, a bill is under examination to condition the marriage upon approval of the Family Court. Another remaining issue is however the absence of clear provision sanctioning child marriage. Section 208 of the Crimes Act 1961 ('Abduction for purposes of marriage or sexual connection') is the most likely avenue for prosecution in case of forced marriage, but this provision is not adequate to sanction all situations of forced marriage and the parents.

18. **Extradition** is regulated by the 1999 Extradition Act. It imposes the double criminality principle which requires the offence to be both an offence under the law of the State requesting extradition and New Zealand’s law. This however undermines the implementation of the OPSC.

19. Regarding **extraterritorial jurisdiction**, Sections 6 and 7 of the Crimes Act 1961 limit the application of the Crimes Act and any other criminal offences, unless otherwise stated, to conduct that occurs within New Zealand. While there are no provisions on extraterritoriality in the relevant acts, the Crimes Amendment Act of 2005 introduced extraterritorial legislation, with the section 144A entitled “Sexual conduct with children and young people outside New Zealand”. The section targets New Zealand citizens or anyone ordinarily resident in New Zealand, who committed an offence specified within the Crimes Act or in Section 23(1) of the Prostitution Reform Act 2003, outside of New Zealand with or on a child. The extraterritorial comes in addition to section 144C inserted in 1995, on “organizing or promoting child sex tours”. New Zealand is lacking extraterritorial jurisdiction for cases of OSCE and forced marriages, beyond abduction cases, and does not have jurisdiction for offences perpetrated against a national abroad, a jurisdiction however required by the OPSC.
Recommendation

- The state continues its efforts to harmonize domestic legislation with the Optional Protocol whereby commercial sexual exploitation of children is clearly defined and not subsumed within child sexual abuse or sexual violence;

Comprehensive policy and strategy

20. There continues to be a lack of a comprehensive policy and plan of action on children that includes all issues covered by the Optional Protocol. This has led to poor implementation and coordination of the Optional Protocol. The Department of Labour, Ministry for Children, New Zealand Police and a few non-governmental organizations across New Zealand are currently involved in work that addresses sale of children and child prostitution but there is a lack of coordination at a national level along with a lack of opportunities for sharing of information and concerns.

21. Furthermore, there also continues to be insufficient information regarding human, technical and financial resources allocated towards the coordination of all activities related to the implementation of the Optional Protocol. There appears to be a Government-led reference group that focuses on vulnerable youth and exploitation, but a cross-sectoral national, regional and local level approach that focuses mainly on the Optional Protocol is widely lacking.

Recommendation

- Adopt a comprehensive policy and corresponding national plan of action that address all issues covered under the Optional Protocol and provide adequate human, technical and financial resources for its implementation;

- The State to include legislative measures that will ensure that a chosen agency has an explicit mandate to promote and monitor the implementation of the Optional Protocol and is provided with adequate human, technical and financial resources to do so;

- Ensure the necessary human, technical and financial resources for effective operation and sufficient authority to coordinate all activities related to the implementation is allocated to a relevant government agency. Coordination should occur at cross-sectoral, national, regional and local levels.

Prevention

22. Youth remain affected by several factors that increase their vulnerability to commercial sexual exploitation. New Zealand's teen suicide rate is the highest in a list of 41 OECD and EU countries. It also has one of the world's worst records for bullying in schools, coupled with high rates of family violence, child abuse and child poverty. ECPAT Child ALERT NZ welcomes the educational and awareness-raising measures and programmes focusing on the identification and the monitoring of vulnerable groups of children who are at risk of becoming SEC victims, especially victims of domestic violence and sexual abuse, children using the Internet without proper supervision, refugees and asylum seekers, and irregular migrants. However, there are no specific programmes to raise awareness about the offences covered by the Optional Protocol, and ECPAT Child ALERT feels that the measures adopted to prevent them remain inadequate. This situation has contributed
towards a low level of understanding and awareness of the Optional Protocol among the public and the professional groups working with and/or for children.

23. ECPAT Child ALERT NZ notes that the Ministry of Women’s Affairs, DIA, including the Office for Ethnic Affairs, and the New Zealand Police are working together to increase their understanding and knowledge of CEFM, and to raise public awareness on this issue. Efforts include keeping an open dialogue with Shakti Women’s Refuge and the Indian High Commission. Awareness-raising campaigns on family violence, as well as communication strategies and resources have also been developed in Hindi. Furthermore, education on forced marriage is provided to quota refugees as part of the reception programme at the Mangere Refugee Resettlement Centre, Auckland.

Recommendations

- The State to develop, in close cooperation with relevant government agencies, civil society organizations, the media, the private sector, communities and children, awareness-raising programmes on all issues covered by the Optional Protocol and protection measures provided against such practices in domestic laws; and to allocate enough resources and funding to ensure their full implementation and assess their effectiveness;

- The State to commission research on the nature and root causes of the sexual exploitation of children, in particular child prostitution and pornography, in order to identify children at risk and assess the extent of the problem;

- The State to undertake targeted preventive measures, including against exploitation over the Internet, and cooperate with international intergovernmental and non-governmental organizations concerning the implementation of awareness-raising campaigns in all areas covered by the Optional Protocol;

- The State to give further attention to the implementation of social and economic development programmes and poverty reduction strategies, including through the appropriate allocation of financial resources for the prevention of all forms of exploitation as defined in the Optional Protocol.

Training

24. The government of New Zealand conducts various training programmes targeting front-line staff, migration, protection, health and public safety officers, as well as labour inspectors and judiciary officials working with child victims. They mainly focus on how to investigate human trafficking offences and on how to detect child victims. However, ECPAT Child ALERT New Zealand remains concerned by the fact that these efforts are not systematic and do not specifically include all the offences covered by the Optional Protocol.

Recommendations

- Develop and implement training activities that are systematic and multidisciplinary and include all areas covered by the Optional Protocol, and are provided to all relevant professionals working with and for children, especially judges, prosecutors, social workers, law enforcement and immigration
officials at all levels. It is also recommended that the State party ensure the systematic evaluation
of all training programmes with a view to enhancing their impact and relevance;

- Establish mechanisms and procedures for the early detection and identification of child victims of
offences prohibited under the Optional Protocol.

Sexual exploitation of children in travel and tourism

25. Around 3.73 million overseas visitors came to New Zealand in 2017, which represents a 6.7%
increase when compared to 2016; just over half of them were holidaymakers. Overall, tourism
remains a thriving industry, as it generated NZD 10.56 billion in 2017, which represents a 5%
increase when compared to 2016. Even though there is no updated data or other forms of evidence
that would allow to assess the scope of SECTT in New Zealand, it is highly likely that children
are being sexually exploited in the travel and tourism industry. The Global Study on Sexual
Exploitation of Children in Travel and Tourism pointed out that Maori children appeared to be at a
higher risk of SECTT, notably due to high levels of poverty, abuse and neglect and poor
educational outcomes. In 2001, the Government of New Zealand launched the “Protect Our
Innocence” initiative to tackle SEC, including SECTT, but it failed to implement it due to low
levels of interagency coordination. In addition, cooperation among law enforcement agencies do
not focus on SECTT, and tourism agencies were found by ECPAT to be generally unwilling to
report suspicions regarding the movements of potential offenders. Although eleven stakeholders
from the international tourism industry with operations in the country signed ECPAT's Code of
Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, no local
business did.

Recommendation

- The State to work closely with ECPAT Child ALERT NZ to conduct advocacy campaigns with the
tourism industry on the harmful effects of child sex tourism; widely disseminate the World Tourism
Organization Global Code of Ethics for Tourism among tour operators and travel agents; and
encourage local enterprises to become signatories to the Code of Conduct for the Protection of
Children from Sexual Exploitation in Travel and Tourism.

Protection of the rights of child victims

26. The Victims’ Rights Amendment Act (2014), which aims at enhancing victims’ rights and role in
criminal justice processes, and at improving the responses of government agencies towards victims
of crime, provides no special protections for child victims, as required by article 8 of the Optional
Protocol. ECPAT Child ALERT NZ is concerned by the fact that child victims of crimes are only
appointed a victim adviser after charges have been filed in court whenever the case is handled by
district courts or the High Court.

27. SEC victims can have access to help from a free victim support service, available 24 hours a day.
Furthermore, the New Zealand Accident Compensation Corporation (ACC) funds support,
counselling and other treatment, as well as medical care, rehabilitation services and financial
entitlements under certain circumstances, for children and young people who may have suffered a
mental injury as a result of sexual abuse or assault. However, ECPAT Child ALERT NZ is concerned that the measures for the recovery and reintegration of victims of all offences under the Optional Protocol remain insufficient. Staff working for victim support are not adequately trained to be able to provide initial support to any child reporting a crime under the Optional Protocol. Furthermore, SEC victims are not made aware of their eligibility to ACC services, which are usually only publicised as an option for victims of sexual abuse or assault. Moreover, there is no adequate procedures through which child victims may seek compensation from perpetrators or the ACC.

28. The New Zealand Police and the Ministry for Children have teams working with children exploited in prostitution, but it is unclear if there is an adequate number of trained staff who would be able to provide comprehensive support to ensure the full recovery and reintegration of SEC victims. ECPAT Child ALERT NZ commends the work of OCEANZ (Online Child Exploitation Across New Zealand), a specialist team within New Zealand Police working in close cooperation with NetSafe to protect children from OCSE as part of a Virtual Global Taskforce (VGT) focused on this SEC manifestation. OCEANZ is competent to coordinate international investigations into online paedophile networks and to identify child sexual offenders by monitoring social network websites. It also targets New Zealand child exploitation sites, including those producing images and abuse for financial gain, in an effort to identify and rescue victims; and gathers intelligence on OCSE for sharing with District-based child exploitation squads, the Department of Internal Affairs, Customs and international partners.

29. ECPAT Child ALERT NZ notes with concern that while there is evidence of underage prostitution in New Zealand, there does not appear to be a monitoring mechanism in place that helps young people who want to exit the industry. In addition, ECPAT Child ALERT NZ is concerned that the Human Rights Commission does not appear to have an explicit mandate to address human rights violations related to the Optional Protocol. ECPAT Child ALERT NZ is also concerned that the Children’s Commissioner is only mandated to raise awareness of and promote the Convention on the Rights of the Child and not the Optional Protocol.

Recommendations

- ECPAT Child ALERT NZ urges the Government to further strengthen measures to ensure appropriate assistance to victims of all offences under the Optional Protocol, including their full social reintegration and physical and psychological recovery;
- Ensure that enough shelters for children victims of sexual exploitation are available, properly funded, staffed by well-trained personnel and able to offer integrated services (psychological, legal, medical, etc);
- Take all necessary measures to minimise the trauma caused to child victims seeking rehabilitation from the Accident Compensation Corporation;
- Guarantee that all child victims, including those who are not citizens or residents of New Zealand to have access to adequate procedures to seek, without discrimination, compensation from those legally responsible, in accordance with article 9 (4) of the Optional Protocol, and consider establishing a victims’ compensation fund for those cases where victims cannot obtain compensation from the perpetrator;
• Increase law enforcement efforts against all types of trafficking, while respecting the rights of victims and defendants;
• Institute a formal procedure to identify victims of trafficking and refer them to protection services;
• Improve and increase protection services available for victims of all forms of trafficking; promote legal awareness programs to potential traffickers both inbound and outbound and key stakeholders at all levels including international agencies to establish a procedure to prosecute and repatriate foreign perpetrators;
• Review the Victims’ Rights Amendment Act (2014) to ensure that victim support services are available to child victims from the date that the complaint is made;
• Legislature is introduced to ensure that all advertising platforms that advertise sex-work take extra precautions to ensure that a person under the age of 18 is not being coerced into advertising;
• Ensure that the National Human Rights Commission is able to receive, investigate and address complaints by children for offences covered under the Optional Protocol.

2 Sustainable Development Goal Targets 5.2, 8.7, and 16.2.
4 ECPAT prefers the term ‘child sexual exploitation material’ or ‘child sexual abuse material’ over the often in legal context still used ‘child pornography’ in line with the recently widely adopted Terminology Guidelines. Ibid., 39.
5 Ibid., 54.
8 Ibid.
9 Ibid.
10 Ibid.

Thorburn, op. cit.


ECPAT International, op. cit.


Ibid.

Ibid, 11.
