



# Global Monitoring



*Report on the*

status of action against commercial  
sexual exploitation of children

United  
States of  
America



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# Glossary of terms and acronyms

**AIDS:** Acquired Immune Deficiency Syndrome

**AMBER Alert:** America's Missing: Broadcast Emergency Response

**ASTA:** American Society of Travel Agents

**BGCA:** Boys and Girls Clubs of America

**Code of Conduct:** A code for travel and tourism companies, providing guidance on the protection of children from sexual exploitation

**CBO:** Community-based organisation

**CCTV:** closed-circuit television

**CRC:** Convention on the Rights of the Child

**CRIS:** Child Recognition and Identification System

**CRT:** Community Response to Trafficking

**CSE:** Commercial sexual exploitation

**CSEC:** The commercial sexual exploitation of children consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. There are three primary and interrelated forms of commercial sexual exploitation of children: prostitution, pornography and trafficking for sexual purposes. Commercial sexual exploitation of children comprises sexual abuse by the adult and remuneration in cash or in kind to the child or a third person or persons.

**CST:** Child sex tourism, or the commercial sexual exploitation of children by men or women who travel from one place to another, usually from a richer country to one that is less developed, and there engage in sexual acts with children, defined as anyone under the age of 18.

**CVIP:** Child Victim Identification Program

**DHS:** Department of Homeland Security

**ECPAT:** End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes

**FBI:** Federal Bureau of Investigation  
**Grooming:** Preparing a child for sexual abuse and exploitation  
**HIV:** Human immunodeficiency virus  
**ICE:** Immigration and Customs Enforcement  
**ICT:** Information and communication technologies  
**IINI:** Innocent Images National Initiative  
**ILO:** International Labour Organization  
**ILO/IPEC:** International Labour Organization/International Programme on the Elimination of Child Labour  
**INGO:** International non-governmental organization  
**IOFA:** International Organization for Adolescents  
**IOM:** International Organization for Migration  
**IRC:** Internet Relay Chat  
**ISP:** Internet service provider  
**IT:** Information technology  
**MoU:** Memorandum of Understanding  
**NCMEC:** National Center for Missing and Exploited Children  
**NGO:** Non-governmental organization  
**NPA:** National plan of action  
**SPOG:** Senior Policy Operating Group on Trafficking in Persons  
**STIs:** Sexually transmitted infections  
**TIP:** Trafficking in Persons  
**TVPRA:** The Trafficking Victims Protection Reauthorization Act  
**UN:** United Nations  
**UNDP:** United Nations Development Programme  
**UNESCO:** United Nations Educational, Scientific and Cultural Organisation  
**UNICEF:** United Nations Children's Fund  
**UNOHCHR:** United Nations Office of the High Commissioner for Human Rights  
**USAID:** United States Agency for International Development  
**WHO:** World Health Organization  
**WTO:** World Tourism Organization

# Foreword

Ten years have passed since the First World Congress against Commercial Sexual Exploitation of Children (CSEC) was held in 1996 in Stockholm, Sweden. The Stockholm Congress was a landmark event, providing testimony that convinced the world that sexual violations against children exist in all nations, irrespective of cultural differences or geographic location. It marked the first public recognition by governments of the existence of CSEC and resulted in a commitment to a global Declaration and Agenda for Action, which was formally adopted by 122 governments, as a guide to the specific measures that must be taken for counteraction.

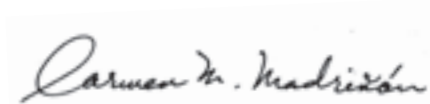
Since 1996, many actors around the world have focused their efforts around this common Agenda for Action and more government and non-government entities have linked, to ensure positive change for children and to protect their right to live free from sexual exploitation. This broad societal alliance (bolstered by a Second World Congress held in Yokohama in 2001, during which the number of countries adopting the Agenda rose to 159 - a figure which has since risen to 161) has made progress in improving protection for children from commercial sexual exploitation. However, the increasing sophistication of resources available to those who seek to exploit children have grown in equal measure. Responding to these challenges requires far more coordinated and targeted work to be undertaken to avoid retrogression.

Experience demonstrates that the level of responsibility and role that a government takes to set and uphold standards of protection, like the lead taken for protecting children's rights, determines the nature, quantity and quality of what the country achieves for its children. Governments can and have accelerated progress for implementation of the Agenda for Action, often opening new and important channels for such work. Nevertheless, their actions have not been uniform and, as these country profiles attest, far more urgent work must be done to protect children from such heinous violations, as these are still perpetrated with impunity in many countries.

This report aims to provide a baseline of information on actions taken and remaining gaps for addressing CSEC in each country, based on the framework of the Agenda for Action, to enable more systematic assessment of progress on implementation of this commitment. It also seeks to contribute to other international mechanisms that exist to protect children's rights; the *Convention on the Rights of the Child (CRC)* and the *Optional Protocol on the sale of children, child prostitution and child pornography* so as to strengthen the implementation and action against commercial sexual exploitation of children at all levels.

Another important objective of these reports is to stimulate the exchange of experience and knowledge among countries and different actors to create a dialogue that can further work against CSEC. While much has been achieved over the last 10 years, many gaps still remain. The implementation of the Agenda for Action is urgently required, for as the reports clearly illustrate, there is a compelling need for global action to protect children from these inhuman violations.

This project is the result of a broad and global collaboration. ECPAT International (EI) would like to thank all those who participated in the work and contributed their inputs, in particular the ECPAT member groups in the countries examined, local experts who provided valuable information and insights, other organisations that shared their experience and information, the dedicated staff and volunteers in the Secretariat of EI and the generous donors who backed the project (more extensive acknowledgements can be found in the Regional Report). This work would not have been realised without their support and solidarity.



Carmen Madriñán  
Executive Director, ECPAT International

# Methodology

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress of 2001 and in the Mid-Term Review meetings held between 2004 and 2005. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Early desktop research revealed a lack of information in the areas of Recovery, Rehabilitation and Reintegration; and Child Participation. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports would focus only on those areas of

the Agenda for Action where verifiable information could be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; and Protection, and where information on the other two areas was available, it has been included under the specific country or in the regional overview.

Research of secondary sources, including CRC country reports, alternative CRC reports, the reports of the Special Rapporteurs, submissions for the recent UN Study on Violence against Children, as well as research and field studies of ECPAT, governmental and non-governmental organizations, and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion through teleconferences, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation.

They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the *Agenda for Action*. Thus all reports feature: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see [www.ecpat.net](http://www.ecpat.net) for further details); and (vi) priority actions required.



# United States of America

There is limited information available on the commercial sexual exploitation of children (CSEC) and adolescents within the United States. The absence of published facts and figures beyond estimates and small-scale local information highlights the pressing need for systematic and verifiable qualitative and quantitative information to guide national level action.

The prostitution of children is a widespread phenomenon, and over the past couple of years several articles in prominent press media, such as *Newsweek* magazine,<sup>1</sup> have highlighted a growing problem of prostitution of girls from many different income levels. Sadly, members of the public and law enforcement view children in prostitution as a public nuisance or as immoral, bad kids, if not criminals. They tend not to see American children in prostitution as “innocent victims”, in the same way as they might see poor, young foreign children who may be kidnapped, sold or trafficked to the US for such purposes. Rather, American girls are seen as willing participants, mostly inner city teenagers who “know just what they are getting into and deserve what they get”.<sup>2</sup>

**Children of the Night, the organisation that runs the only full-service voluntary shelter for sexually exploited children in the country, describes the prostitution of children in the USA as follows:**

“Child prostitution is national in scope. Pimps have become more sophisticated in their recruitment and maintenance of the children they force into prostitution, moving their victims from state to state, often forcing them to work as prostitutes outside the larger cities and in small towns, where police are unfamiliar with the operations of child prostitution rings. Children are recruited by pimps in arcades, malls, entertainment centres, at tourist attractions and concerts. The pimp seduces a new recruit with the lure of wealth and the luxury of designer clothes, fancy cars, and exclusive nightclubs. Pimps move from city to city looking for children who are easy prey: alone, desperate, and alienated. Once he moves a child from her hometown into a strange city, the pimp can easily force her to work as a prostitute. Thousands of children are victimised by this horrible con game every year. The prostitution of children is an immense and devastating problem that nobody wants to recognise, nobody wants to talk about, and everyone wants to cover up. Children involved in prostitution are not only abandoned by their parents, but by the social services system as well.”<sup>3</sup>

The United States (US) is one of the world's largest producers, distributors and consumers of child pornography. Online images of sexual exploitation of children is the most significant cybercrime against children confronting the Federal Bureau of Investigation (FBI) - there was a 1,997 per cent increase in the number of child pornography cases opened between fiscal years 1996 and 2002, with the actual number increasing from 113 to 2,370. It is anticipated that the number of cases opened and the resources needed to tackle the crime will continue to rise during the next several years.<sup>4</sup>

The US is also a source country for child sex tourism (CST), and a destination country for trafficking in children for sexual purposes. Research has estimated that a large percentage of sex tourists abusing children around the world are Americans.<sup>5</sup> The US Government has also estimated that between 14,500 and 17,500 people are trafficked into the country each year,<sup>6</sup> and while there are no hard statistics, some believe that one-third of them may be under 18 years of age.

Since the Second World Congress held in Yokohama in 2001, the US has put considerable energy into fighting international trafficking of both adults and children on a global level and at home. While much attention has been paid to the problem by federal law enforcement, in general less effort has been invested by the Government in fighting CSEC within the country. But a promising sign of increased attention to this problem at national level is the Government's contribution to planning a national Yokohama Mid-Term Review Meeting.

The US was represented at the First World Congress against CSEC and adopted the *Stockholm Declaration and Agenda for Action*. The US also participated in the Second World Congress in 2001 and signed the commitments made there.

## NATIONAL PLAN OF ACTION (NPA)

The United States has no national plan of action to combat the commercial sexual exploitation of children, nor other comprehensive plans that address CSEC issues. The US Department of Justice sponsored a national meeting in 2002 designed to address the commercial sexual exploitation of children in the country and to discuss recommendations for combating it. However, there has been little follow up to these recommendations until very recently.

# COORDINATION AND COOPERATION

## Local and National Level

While the US Government has devoted considerable efforts to anti-trafficking initiatives (although with limited focus on child trafficking), it has failed to give adequate attention to strengthening coordination and cooperation at national level to address domestic CSEC issues. In fact, it is unclear how government agencies are coordinating to resolve the problem. There are only limited examples of coordination and cooperation among non-governmental organizations (NGOs) working on CSEC-related issues in the country.

A successful example of coordination efforts is the New York City Community Response to Trafficking (CRT) launched in 2002. This is an awareness and training project aimed at developing a collaborative response to the problem of human trafficking by community-based organisations and criminal justice agencies, including local police and prosecutors and federal agents and prosecutors. Developed by ECPAT USA and the International Organization for Adolescents (IOFA),<sup>7</sup> CRT has three components: 1) the *CRT Outreach Model*, which is implemented in communities identified as “at risk” of trafficking; 2) a training programme for law enforcement agents, service providers and staff at community-based organisations, on how to identify trafficking victims and refer them to support services; 3) a working group model that brought together federal and local law enforcement agents, service providers and community organisations to design a protocol for addressing human trafficking cases identified in New York City. CRT-style task forces have been funded by the US Department of Justice in 33 cities.<sup>8</sup>

In February 2002, the federal Inter-Agency Task Force to Monitor and Combat Trafficking in Persons was established,<sup>9</sup> with a view to strengthening coordination among key national agencies (both governmental and non-governmental organizations (NGOs)), identifying measures to protect potential victims more effectively, punishing traffickers and preventing future trafficking. The State Department Office to Monitor and Combat Trafficking in Persons assists the Task Force in such initiatives.<sup>10</sup> In 2003, the Task Force approved the establishment of the Senior Policy Operating Group on Trafficking in Persons (SPOG).<sup>11</sup> However, strategies and policies to tackle trafficking in children for sexual purposes in particular have not been considered so far.

## Regional and International Level

Collaboration at international level has focused strongly on combating trafficking in human beings, in accordance with the *Victims of Trafficking and Violence Protection Act of 2000*, and particularly through the State Department's Office of the Undersecretary of Global Affairs and the Office to Monitor and Combat Trafficking in Persons. Funding is allocated according to the State Department's congressionally mandated *Trafficking in Persons (TIP) Report*, which categorises countries into four groups according to the efforts they make to combat trafficking. Countries that the US deems to take inadequate measures against trafficking (Tier Three) are subject to US sanctions.<sup>12</sup>

The TIP Office funding has assisted governmental, non-governmental and international organisations with creating specialised law enforcement units; training prosecutors and judges; strengthening anti-trafficking laws; providing emergency shelter and care for victims; offering voluntary repatriation assistance, making available long-term reintegration assistance, vocational training and legal advocacy; as well as making available psychological and medical assistance for victims; and launching information campaigns.<sup>13</sup> These efforts have given impetus to anti-trafficking initiatives worldwide, drawing countries previously marginal to counter trafficking efforts into action. While this mobilisation around counter trafficking favours work against CSEC, more targeted and differentiated initiatives, particularly to benefit child victims of different forms of sexual exploitation, are required.

### **Use of one umbrella for all types of child exploitation hinders appropriate interventions**

The TIP Office bases its definition of trafficking on the federal *Victims of Trafficking and Violence Protection Act of 2000*, and a broad interpretation of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)*. As a result, the TIP Office regards any child, or person, who is commercially sexually exploited as a victim of trafficking - whether or not the person has been transferred from one place to another for the purpose of their exploitation. Therefore, the US Government's definition of trafficking is essentially synonymous with "forced labour" and does not require any type of movement of the victim. This is contrary to the internationally-agreed definition of trafficking in human beings, which necessarily involves the movement of a person/child beyond their locale. Forced labour and slavery are often the outcome of a trafficking process in which a child or adult is moved from one place to another for the purpose of exploitation. But forced labour and slavery can also exist independently of this process, without involving the act of trafficking.

On the basis of a key definition, the TIP Report therefore fails to disaggregate data adequately, making it impossible to differentiate between the types of sexual exploitation and forced labour abuses that children are subjected to, classifying them all as “trafficking”. Similarly, the State Department’s Trafficking in Persons initiative fails to define or require targeted and differentiated interventions for such a broad grouping of children’s rights violations, which compromises the usefulness of the Report at the level of anti-trafficking action. The distinction between the different types of exploitation is especially important when identifying appropriate strategies to prevent and combat these crimes, so that tailored assistance can be provided to the diverse groups victimised by, or vulnerable to, these crimes.

While ECPAT International welcomes US Government efforts to raise awareness about the issue, it considers that it is important to seek a harmonised understanding and sharp and specific recognition of the many types of abuse that constitute slavery, forced labour and trafficking in persons for diverse purposes, so that appropriate interventions can be identified and effective action taken.

## PREVENTION

Prevention efforts within the United States aimed at protecting children do not primarily address the specificities of CSEC and treat the issue within the broader context of child safety or trafficking in persons. Furthermore, they are often focused on specific areas of the country, are time-limited and most are not institutionalised government initiatives. There is a serious gap in CSEC prevention, particularly in terms of large-scale awareness raising and response programmes aimed at the public or at children.

The *NetSmartz Workshop* is an interactive, educational safety resource from the National Centre for Missing and Exploited Children (NCMEC) and the Boys and Girls Clubs of America (BGCA), targeting children aged 5 to 17, parents, guardians, educators, and law enforcement. Through 3-D Internet safety graphics, true stories and interactive characters such as “Clicky” and “Nettie”, the project teaches children how to stay safer on the Internet. *NetSmartz* was released nationwide in 2002<sup>14</sup> and reached more than 3,000 Boys and Girls Clubs of America (the resources are also accessible at [www.NetSmartz.org](http://www.NetSmartz.org)).<sup>15</sup> Research into youth awareness of Internet safety and online behaviour showed that knowledge and awareness of Internet safety was disturbingly low before the programme was introduced, but increased significantly after its implementation. Furthermore, 83 per cent of the interviewees said it has changed their behaviour online and that they would now be “more careful” when using the Internet and sharing information.<sup>16</sup>

In April 2003 the *Senate Caucus on Missing, Exploited and Runaway Children* was created. The Caucus objective is to assist Senators in sponsoring legislation on behalf of missing, exploited and runaway children; hold briefings for Senators and staff with child advocacy organisations; and provide advice to Senators on conducting workshops in their states.<sup>17</sup>

### Tourism Code of Conduct launched in the US

An important achievement was the North American launch of the *Code of Conduct to Protect Children from Sexual Exploitation in Travel and Tourism* in 2004, jointly organised by ECPAT, United Nations Children's Fund (UNICEF) and the World Trade Organization (WTO). Signatories include Carlson Companies, a multi-national travel and tourism company based in the US, which is now producing ticket wallets and holiday cards that feature messages against child sex tourism, and establishing an official company policy on the issue. The American Society of Travel Agents (ASTA), the world's largest membership organisation for people in the travel industry, with over 20,000 members, also signed the Code. They are creating awareness raising leaflets and posters. Contracts between ASTA and suppliers now include a clause about their common repudiation of the commercial sexual exploitation of children.<sup>18</sup> Furthermore, the US State Department has strongly encouraged the private sector to take voluntary steps such as signing the *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*. But the US can do much more to educate and inform its citizens and residents that sex with children is illegal everywhere.

Finally, the US Government engages in extensive outreach to NGOs, which are often an important point of contact with trafficking victims of all ages. The Department of Justice has also conducted training in several cities.<sup>19</sup>

## PROTECTION

The United States signed the *Convention on the Rights of the Child (CRC)*<sup>20</sup> in 1995, but it is one of only two countries - the other being Somalia - that has failed to ratify it. Despite its failure to ratify the CRC, the United States ratified the CRC's *Optional Protocol on the sale of children, child prostitution and child pornography (Optional Protocol)*<sup>21</sup> in 2002, albeit with extensive reservations. Upon ratification of the *Optional Protocol*, the United States reiterated that it assumes no obligations under the *CRC* and made a reservation regarding the definition of child pornography, which it interpreted to be restricted to visual materials as opposed to "any representation, by whatever means".<sup>22</sup>

The United States ratified *ILO Convention No. 182*<sup>23</sup> in 1999 and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)*<sup>24</sup> in 2005.

### When victims are treated as criminals

Although many federal laws prosecuting those who commit sexual offences against children have been significantly strengthened in recent years, most cases of commercial sexual exploitation of children are prosecuted at the state and local level. Services for the child victims are provided at this level as well. All state laws treat the act of prostitution involving minors as a crime and states are beginning to pass separate laws punishing child trafficking *per se*. Those who prostitute a child, whether as facilitators or as consumers, are addressed in state law criminal codes; state laws are being revisited frequently to enhance penalties against the exploiters. However, while the prostitution of a child is considered a crime, the child is still generally criminally liable under state law; as a juvenile at age 16 or under, and possibly as an adult offender at 16 or 17, and, as such, subject to arrest, detention and prosecution. This inconsistency has raised the level of debate about whether children are in prostitution by choice or coercion, whether they are victims or willing participants.<sup>25</sup> The central issue facing the justice system is whether it views and treats these children as victims or offenders. To date, state laws have not uniformly exempted children from arrest and prosecution for involvement in prostitution. State laws and/or measures of application must therefore be revised to ensure that all children up to the age of 18 are protected from exploitation in prostitution and that they are treated as victims entitled to support and services, and not as criminals.

States generally consider “carnal knowledge” of a person under the age of consent (16 to 18, depending on the state) as statutory rape no matter how mutual the act or whether the exchange of money is involved, as long as the person is not very close in age to the victim. This is to avoid prosecution, for example, of 18 year-old males who have consensual sex with their 16 year-old girlfriends. When state lines are crossed in the committing of such a crime, it becomes a federal crime.

However, the legal definition of trafficking in the federal *Trafficking Victims Protection Reauthorization Act (TVPRA)* of 2000 and its subsequent reauthorisations in 2003 and 2005 makes clear that all persons under 18 “induced to perform a commercial sex act” are victims and are considered victims of a “severe form of trafficking”, and the crossing of state lines is not required for it to be designated a federal crime.<sup>26</sup> There is thus a critical disconnection between coexisting state and federal laws. While the federal statute draws a new picture of prostituted children as victims, state and local systems in many cases continue to treat them as offenders. The absence of a national level plan against commercial sexual exploitation to guide and support common understanding and action is a serious impediment to safeguarding the rights of sexually exploited children, while at the federal level, the Government designates that they must be protected as victims of these crimes. State laws should therefore be harmonised with federal laws in order to afford protection to all children up to the age of 18, regardless of the age of consent.

The vast majority of sexually exploited children are both stigmatised and trivialised by the judicial and law enforcement system. According to the information gathered by the National Incident-Based Reporting System, police are more likely to categorise juveniles involved in prostitution as offenders rather than as crime victims;<sup>27</sup> the legal system can treat them as both offenders and victims, whereas welfare and reform organisations tend to approach them as victims of specific exploiters and/or general social conditions.<sup>28</sup>

## Legislation

The United States has a strong framework of federal legislation related to child pornography, transporting of children between states for unlawful sexual purposes and child trafficking, but there is no *federal* law defining or prohibiting the prostitution of children *per se*. State laws define and prohibit the prostitution of children, yet these laws inconsistently protect child victims. For instance, some child prostitution laws at the state level define a child as under 18, while others as under 16 and even under 15. Domestic victims of commercial sexual exploitation are not given the same level of attention as child victims who have been trafficked into the country, and law enforcement efforts are heavily focused on child pornography, rather than on prostitution. Furthermore, US legislation related to the commercial sexual exploitation of children is complex and lengthy, and would greatly benefit from being streamlined.

The United States has a dual system of laws. The federal laws that apply to all 50 states and the District of Columbia include the US Constitution, the decisions of the United States Supreme Court, and the laws enacted by Congress as reflected in the United States Code and federal regulations. Federal laws focus on areas that involve all states, such as foreign treaties, national defence, and interstate and foreign commerce. Each of the 50 states enacts legislation in areas of local concern; for example, family law (divorce, child custody, child protection, etc.) is an area primarily governed by state legislation. Given the enormous body of legislation available, this report is limited to the federal laws. In addition to statutes, state and federal courts interpret legislative provisions. Again, due to the enormous body of case law available for review, this report is limited to discussing federal statutes applicable to child prostitution, child pornography, and trafficking in children for sexual purposes.

Federal criminal laws related to the commercial sexual exploitation of children are contained in several different provisions in Title 18 of the US Code. Congress recently enacted the *Adam Walsh Protection and Safety Act of 2006*. This enhances penalties for several offences,

and removes the statute of limitations for felony sex offences,<sup>29</sup> which include all of the provisions related to child prostitution, child trafficking and child pornography. Despite these improvements to federal law, most child commercial sexual exploitation cases are prosecuted at state level, based on state law. Without a national level mechanism for addressing CSEC, harmonisation between federal and state laws receives little impetus.

### Prostitution of Children

As noted, there are federal laws covering aspects of transporting minors in interstate or foreign commerce, or the acts occurring on federal lands in order to satisfy the constitutional balance of power between federal and state authority. As a result, federal law does not specifically define or prohibit the prostitution of children - sex with a child for remuneration. While some state laws define prostitution of children, the main challenge is the creation of effective laws overall that protect all children and lead to successful prosecutions without treating child victims of prostitution as offenders.

The prostitution of children has always been considered a state crime, but the inclusion of child prostitution victims as trafficking victims under the *2005 Trafficking Victims Protection Reauthorization Act* has involved the federal government. United States federal laws concerning child prostitution are thus attached to provisions related to travelling, selling, buying, or performing other activities that constitute trafficking.

Federal law makes it illegal to use the mail, or any facility or means of interstate or foreign commerce, to knowingly persuade, induce, entice or coerce a person under 18 years of age to engage in prostitution, or to attempt to do so.<sup>30</sup> Violators may be fined and imprisoned for not less than ten years or for life.<sup>31</sup> Similarly, it is illegal to transport a person under 18 years of age in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with the intent that the transported person engage in prostitution.<sup>32</sup> Punishment may be a fine and imprisonment of not less than ten years or for life.<sup>33</sup> The law also prohibits using the mail, or any facility or means of interstate or foreign commerce, to knowingly initiate transmission of the name, address, telephone number, social security number, or email address of a person under 16 years of age with the intent to entice, encourage, offer, or solicit any person to engage in sexual activity, or to attempt to do so. Offenders may be punished with a fine, five years' imprisonment, or both.<sup>34</sup> Penalties are increased for repeated violations. The maximum penalty for an

offender with a previous sex offence conviction may be twice the term of imprisonment otherwise provided for.<sup>35</sup> And, if any of the above criminal acts involves murder of the victim, then punishment may be death or imprisonment for any term of years or for life.<sup>36</sup>

This chapter of the US Code also contains provisions related to sex tourism. It is illegal for a United States citizen or permanent resident to travel in interstate commerce, into the United States, or in foreign commerce, for the purpose of engaging in illicit sexual conduct.<sup>37</sup> Under this statute, illicit sexual conduct includes any sex act with a person under 18 years of age, where anything of value is given to or received by any person.<sup>38</sup> It is also unlawful for a United States citizen or permanent resident to travel in foreign commerce and engage in illicit sexual conduct (any sex act with a person under 18 years of age, for remuneration).<sup>39</sup> This law further prohibits arranging, inducing, procuring, or facilitating, for purposes of commercial advantage or private financial gain, the travel of a person in interstate or foreign commerce for purposes of engaging in illicit sexual conduct.<sup>40</sup> Violators may be punished with a fine, up to 30 years' imprisonment, or both.<sup>41</sup> A defence to a prosecution under this law is that the defendant reasonably believed that the person with whom the defendant engaged in illicit sexual conduct was 18 years of age or older.<sup>42</sup>

At the state level, the enforcement of child trafficking and prostitution laws is reportedly very low. For instance, there have been twelve new state laws on child trafficking and prostitution passed since the Second World Congress, but there have been no convictions under them.<sup>43</sup> As mentioned above, some state laws are enforced in a way that criminalises children for their involvement in prostitution, and this should be urgently addressed.

### **Trafficking in Children for Sexual Purposes**

United States law meets international standards as set out in the *Trafficking Protocol*, for protecting children against trafficking for sexual purposes. However, while US legislation is comprehensive, enforcement is inconsistent, and particularly for domestic child victims who are trafficked within the United States, as opposed to those who are trafficked into the United States from foreign countries.

Federal law prohibits, in interstate or foreign commerce, recruiting, enticing, harbouring, transporting, providing or obtaining a person, knowing that the person is under 18 years of

age and will be caused to engage in a commercial sex act;<sup>44</sup> a commercial sex act is any sex act where anything of value is given to or received by any person.<sup>45</sup> It is also illegal to benefit financially or receive anything of value by participating in any activity described above.<sup>46</sup> For violations involving a child under 14 years of age, punishment may be a fine and at least fifteen years' or life imprisonment.<sup>47</sup> Violations involving children between 14 and 18 years of age may be punished with a fine and at least ten years' or life imprisonment.<sup>48</sup> Attempts to violate these provisions are subject to the same punishment as the completed violation.<sup>49</sup>

This law also makes it illegal to facilitate trafficking for sexual purposes by knowingly concealing, destroying, removing, confiscating, or possessing an actual or purported passport or other immigration document of a person who is being trafficked in violation of the provision cited above, among others.<sup>50</sup> Similarly, it is illegal to prevent or restrict a person's liberty to move or travel if that person is a victim of a severe form of trafficking; severe forms of trafficking include trafficking of a person under 18 years of age for a commercial sex act.<sup>51</sup> Violators may be punished with a fine, up to five years' imprisonment, or both.<sup>52</sup> And, the law provides for mandatory restitution, requiring an offender to pay a trafficked victim the full amount of the victim's losses.<sup>53</sup>

The *Trafficking Victims Protection Act 2000* and its re-authorisations in 2003 and 2005 enhanced assistance to victims in the United States and in other countries. In the United States, non-US citizens who are victims of severe forms of trafficking - which include a person under 18 years of age induced to perform a commercial sex act - are eligible for benefits and services, without regard to their immigration status.<sup>54</sup> Eligible trafficking victims may also receive medical care and be allowed to stay in the United States in order to prosecute those responsible for trafficking them.<sup>55</sup> With respect to assistance in foreign countries, the Secretary of State and the United States Agency for International Development (USAID), in conjunction with various NGOs, will establish and implement programmes to assist the safe integration, reintegration, or resettlement of trafficking victims.<sup>56</sup>

This law further requires the Secretary of State to closely scrutinise the efforts of governments to prosecute traffickers, as well as evaluate whether other countries have achieved progress in eliminating trafficking in persons, by presenting an annual report to Congress.<sup>57</sup>

## Child Pornography

United States legislation on the creation, distribution, and possession of child pornographic images meets international standards, as set out in the *Optional Protocol*, even though the definition of child pornography is limited to visual materials. Another drawback of these provisions is that they are lengthy and complicated. In addition, federal laws on child pornography have previously run foul of the Constitution. Given the complicated nature of such laws and the constraints imposed by the First Amendment and other constitutional provisions, US law on child pornography is not a model for countries with other legal systems to follow.

Child pornography is defined as any visual depiction, including a photograph, film, video, picture, or computer or computer-generated image or picture, created electronically, mechanically, or by other means: (1) whose production involved a person under 18 years of age engaging in sexually explicit conduct; (2) that is a digital, computer or computer-generated image that is, or is indistinguishable from, a person under 18 years of age engaging in sexually explicit conduct; or (3) that is created, adapted, or modified to appear as an identifiable minor engaging in sexually explicit conduct.<sup>58</sup>

United States federal law contains a series of provisions that criminalise acts related to the creation, possession and dissemination of child pornography. It is illegal to employ, use, persuade, induce, entice or coerce a person under 18 years of age to engage in, or assist any other person to engage in, any sexually explicit conduct for purposes of creating a visual depiction of that conduct.<sup>59</sup> The law also prohibits transporting a person under 18 years of age in interstate or foreign commerce, or in any territory or possession of the US, with the intent that the person engage in sexually explicit conduct for the purpose of creating a visual depiction of that conduct.<sup>60</sup> It is also illegal for a parent, legal guardian, or person having custody or control of a person under 18 years of age knowingly to permit that person to engage in, or assist any other person to engage in, any sexually explicit conduct for purposes of creating a visual depiction of that conduct.<sup>61</sup> In all of these cases, the offender must know or have reason to know that the visual depiction will be or was actually transported in interstate or foreign commerce, or mailed; or that the visual depiction was produced using materials that were mailed, shipped or transported in interstate or foreign commerce, including by computer.<sup>62</sup>

This law further prohibits employing, using, persuading, inducing, enticing or coercing a person under 18 years of age to engage in, or assist any other person to engage in, any

sexually explicit conduct outside of the United States, its territories or possessions, for purposes of producing any visual depiction of such conduct. The offender must intend that the visual depiction will be transported to the United States, its territories or possessions, by any means, including by computer or mail, or the offender actually transports the visual depiction.<sup>63</sup>

It is also illegal to knowingly produce, print, publish, cause to be produced, printed or published, any notice or advertisement seeking or offering: to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction if the production involves a person under 18 years of age engaging in sexually explicit conduct; or to participate in any act of sexually explicit conduct by or with another person under 18 years of age for the purpose of producing a visual depiction of such conduct. The offender must know or have reason to know that the notice or advertisement will be transported in interstate or foreign commerce by any means, including by computer or mail, or the notice or advertisement is actually transported.<sup>64</sup>

Violators of all of these offences, including those who attempt or conspire to commit these offences, may be fined and imprisoned for fifteen to thirty years. If an offender of these laws has one previous conviction for child sexual exploitation or trafficking, among others, punishment is increased to a fine and imprisonment for twenty-five to fifty years. For two prior convictions related to child sexual exploitation, punishment is further increased to a fine and thirty-five years' to life imprisonment. And, if committing one or more of the above offences results in the death of a person, punishment is death or not less than thirty years' or life imprisonment.<sup>65</sup>

Federal law also prohibits a parent, legal guardian, or other person having custody or control over a person under 18 years of age from selling, offering to sell, or transferring the child, or for any person to purchase or obtain custody or control of a child, knowing that the child will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or, with intent to promote a child to engage in or assist any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of that conduct.<sup>66</sup> The offence must involve any of the following: the child being transported or travelling in interstate or foreign commerce; any offer being communicated or transported in interstate or foreign commerce, including by computer or mail; or the offence taking place in any territory or possession of the United States.<sup>67</sup> Punishment may be a fine and thirty years' to life imprisonment.<sup>68</sup>

In addition to these provisions on creating, reproducing or distributing child pornographic images, US federal law makes it illegal to knowingly transport, ship, receive, distribute, sell, or possess with intent to sell, any visual depiction of a person under 18 years of age engaged in sexually explicit conduct, in interstate or foreign commerce, including by computer or mail.<sup>69</sup> Violators, including those who attempt or conspire to violate these laws, may be punished with a fine and five to twenty years' imprisonment. One prior conviction of a crime related to child sexual exploitation increases punishment to a fine and fifteen to forty years' imprisonment.<sup>70</sup> The law also prohibits knowingly possessing one or more books, magazines, periodicals, films, videotapes, or other matter which contain any visual depiction of a person under 18 years of age engaged in sexually explicit conduct, in interstate or foreign commerce, including by mail or computer.<sup>71</sup> It is a defence to this crime that the defendant possessed less than three items containing the prohibited visual depictions and took reasonable steps to destroy each depiction promptly or report the matter to law enforcement.<sup>72</sup> Violators, including those who attempt or conspire to violate these laws, may be punished with a fine or up to ten years' imprisonment, or both. Previous conviction of a crime related to child sexual exploitation increases punishment to a fine and ten to twenty years' imprisonment.<sup>73</sup>

Finally, the law contains provisions related to the admissibility of evidence in prosecutions under this legislation<sup>74</sup> and the availability of civil remedies to persons under 18 years of age who are victims of these crimes.<sup>75</sup>

### **Extraterritorial Legislation**

The United States exercises extraterritorial jurisdiction over a number of CSEC offences, including sex tourism<sup>76</sup> and the creation, receipt or distribution of child pornographic images when conducted outside the United States.<sup>77</sup>

As previously mentioned, federal law makes it illegal for a United States citizen or permanent resident to travel abroad for the purpose of engaging in illicit sexual conduct.<sup>78</sup> Under this statute, illicit sexual conduct includes any sex act with a person under 18 years of age where anything of value is given to or received by any person.<sup>79</sup> It is also unlawful for a United States citizen or permanent resident to travel abroad and engage in illicit sexual conduct (any sex act with a person under 18 years of age for remuneration).<sup>80</sup> This law

further prohibits arranging, inducing, procuring, or facilitating, for purposes of commercial advantage or private financial gain, the travel of a person in foreign commerce for purposes of engaging in illicit sexual conduct.<sup>81</sup>

Federal law also makes child pornography offences subject to extraterritorial jurisdiction. It is illegal for persons outside the United States to employ, use, persuade, induce, entice, or coerce a person under 18 years of age to engage in or assist any other person to engage in or transport a person under 18 years of age with the intention that the person engage in any sexually explicit conduct for purposes of creating a visual depiction of that conduct, and intending that the visual depiction be imported into the United States or into waters within twelve miles of the coast of the United States.<sup>82</sup>

Punishment for violators, including those who attempt or conspire to commit these offences, may be fined and imprisoned for fifteen to thirty years. If an offender of these laws has one prior conviction for child sexual exploitation or trafficking, among others, punishment is increased to a fine and imprisonment for twenty-five to fifty years. For two prior convictions related to child sexual exploitation, punishment is further increased to a fine and thirty-five years' to life imprisonment. If committing one or more of the above offences results in the death of a person, punishment is death or not less than thirty years' or life imprisonment.<sup>83</sup>

It is similarly illegal for a person outside the United States to knowingly receive, transport, ship, distribute, sell, or possess with intent to transport, ship, sell, or distribute any visual depiction of a person under 18 years of age engaging in sexually explicit conduct, and intending that the visual depiction be imported into the United States or into waters within twelve miles of the coast of the United States.<sup>84</sup> Violators, including those who attempt or conspire to violate these laws, may be punished with a fine and five to twenty years' imprisonment. One prior conviction of a crime related child sexual exploitation increases punishment to a fine and fifteen to forty years' imprisonment.<sup>85</sup>

### **Operation Predator**

Operation Predator was launched in 2003 to call upon the Immigration and Customs Enforcement authorities to identify, investigate, arrest and, in the case of foreign nationals, deport child sex predators, child sex tourists, human smugglers and traffickers of children, and traders, producers and distributors of child pornography. More than 1,500 child sex predators have been deported and over 4,000 have been arrested in the United States, including 13 international child sex tourists.<sup>86</sup>

## Child Protection Units

The enactment of the 2003 *Protecting Children against Crime Act* has led to more sustained efforts to arrest and convict American child sex tourists as well as disrupt networks or tourist routes employed by American nationals seeking sexual contact with children. This has been done through the US Immigration and Customs Enforcement (ICE), the largest investigative arm of the Department of Homeland Security (DHS). ICE is charged with investigating cases related to child sex tourism and pornography, alien smuggling, human trafficking and other crimes affecting young people. It has attachés in 32 US embassies around the world.<sup>87</sup> The Act has also led to improvements in national coordination between the state and local America's Missing: Broadcast Emergency Response (AMBER Alert) programmes<sup>88</sup> developed in 2001, including the appointment of a national AMBER Alert Coordinator and the development of guidance for issuing and disseminating AMBER Alerts.<sup>89</sup>

### Enhancing mechanisms to punish child sex offenders

The 2003 *Protecting Children against Crime Act* eliminates the statute of limitations for prosecuting certain sex crimes against children which expired when the victim turned 25 years old, and expands the national sex offender registry to include those who produce and distribute child pornography. Furthermore, it allows law enforcement to use existing legal tools, such as wiretaps, that were not until then authorised for many of the sexual offence crimes associated with using the Internet to lure children for purposes of sexual abuse and sex trafficking.<sup>90</sup>

The Innocent Images National Initiative (IINI), a component of the FBI's Cyber Crime Programme, combats the proliferation of child pornography/child sexual exploitation facilitated by an online computer. IINI provides centralised coordination and analysis of cases that are national and international in scope, liaising with state, local and international governments. It focuses on individuals who indicate a willingness to travel interstate for the purpose of engaging in sexual activity with a minor, and also on major producers and/or distributors of child pornography. In addition, IINI works to identify child victims and obtain appropriate assistance for them.

The National Centre for Missing and Exploited Children runs the Child Victim Identification Program (CVIP), which reviews seized child pornography images, alerting authorities on images contain children previously identified through law enforcement investigations.<sup>91</sup>

CVIP staff also examine the images of unidentified children and has processed more than 1.5 million images through the Child Recognition and Identification System (CRIS), working directly with law enforcement at local, state, federal, and international level.<sup>92</sup>

When a case of child abuse is reported, there are special procedures in place to protect the child. The US funds a number of “child advocacy centres” around the country that are special locations for investigating crimes against children. The use of one-way mirrors makes it possible for the child to be interviewed only once during the investigation, with the interview observed by prosecutors, attorneys, law enforcement officials and others, thereby eliminating the need to have the child constantly traumatised by having to repeat the story. The centres also provide legal support for the child and the child’s family, mental and physical health care, and other social services as needed.

In the US criminal justice system, children are required to testify in Court unless those charged with offences plead guilty. To facilitate that process, most states and the Federal Government have enacted reforms that permit special protection for children to ease the trauma associated with providing testimony in sexual victimisation cases. These include access to “support persons” or guardians *ad litem*, using anatomically detailed dolls, and special exceptions from the legal “rule against hearsay evidence” that allow certain out-of-court statements by child victims to be admitted in evidence. Also, many states provide for the use of closed-circuit television (CCTV) testimony of children so they can be away from the immediate presence of the offender.

## Support Services for Children

One of the major gaps in the ability to help victims of commercial sexual exploitation, as described by relevant actors, is the lack of transitional shelters or programmes for such cases, which often forces them to go back onto the street.<sup>93</sup> The US has a full array of services available for child victims of trafficking from other countries, both for emergency needs and for long-term recovery and reintegration. However, programmes aimed at assisting US victims of trafficking exist only in a few cities and on a small scale.

The *Trafficking Victims Protection Reauthorization Act* of 2005 authorised, for the first time, services for US victims of human trafficking. This includes a pilot residential treatment facility in the US, and grants to establish, develop, expand and strengthen assistance programmes for US citizens, both adults and children who are subjects of severe forms of trafficking in persons. But the resources allocated for this purpose have not been appropriated or spent yet.<sup>94</sup> Previous versions of the Act provided for local hotlines operated by NGOs, culturally and linguistically appropriate protective shelters, regional and international NGO networks and databases on trafficking; support for NGOs and advocates to provide assistance services to trafficked individuals; education and training for trafficked women and girls; safe integration or reintegration of trafficked individuals into an appropriate community or family; support for locating, repatriating, and treating the trafficked victims' family members, or their integration or resettlement into appropriate communities, and providing them with treatment.<sup>95</sup>

Even with the array of services available for international victims of human trafficking, there are actually very few children who are able to take advantage of such services because few victims have been found and identified as victims, despite the large number of children who are estimated to be trafficked into the US each year.

The US Department of Health and Human Services' Family Youth Services Bureau funds a Street Outreach Programme through the *Runaway, Homeless, and Missing Children Protection Act* of 2003,<sup>96</sup> which funds organisations and shelters that serve and protect sexually exploited children and those at risk. The Act also promotes activities such as training and technical assistance to grantees, applicants, and youth workers.<sup>97</sup> But there is no training provided by this office on the commercial sexual exploitation of children specifically, and there are no shelters funded to meet the particular needs of child victims of sexual abuse and exploitation.

## Training Law Enforcement Personnel

The US has good training resources and facilities for law enforcement. Unfortunately, the wide array of police departments around the country, from New York City's 40,000-strong police force, to small towns with just a handful of law enforcement officers, makes it difficult to ensure that there is generalised knowledge about how to identify and properly treat children who are commercially sexually exploited. More training is therefore required to avoid the revictimisation of exploited children.

The Child Exploitation and Obscenity Section provides training to state, local and federal law enforcement agencies and prosecutors, domestically and abroad, emphasising trafficking and other sexual exploitation statutes. In particular, it has cultivated strong relationships with the specialised units dealing with offences against children in each of the major federal investigative agencies,<sup>98</sup> conducting training, law enforcement initiatives, and major

national and international investigations. Additionally, in partnership with NCMEC, it provides regular training to state and local prosecutors on the sexual exploitation of children. The Child Exploitation and Obscenity Section also maintains a network of points of contact for child exploitation and trafficking matters within each of the US Attorney's Offices in order to keep updated on legislative and judicial developments related to child exploitation.

NCMEC and its partners offer numerous courses several times a year to train prosecutors, judges and law enforcers in investigating and preventing cases involving the sexual exploitation of children. In addition, NCMEC runs a hotline (1-800-THE-LOST), and its website ([www.missingkids.com](http://www.missingkids.com)) reaches a global audience with a multilingual database of images and information on missing children, prevention tips and free resources.<sup>99</sup> NCMEC also runs the [www.cybertipline.com](http://www.cybertipline.com), a congressionally mandated online reporting tool that receives leads on the sexual exploitation of children.<sup>100</sup>

The Child Exploitation and Obscenity Section and the Federal Bureau of Investigation are currently undertaking a child prostitution initiative with the aim of increasing cooperation with state and local law enforcement and NGOs. In selected cities, task forces to combat the commercial sexual exploitation of children are being formed. They are also pursuing investigations that jointly employ social service organisations to assist child victims, and are developing undercover initiatives to target individuals involved in child sex tourism.

Furthermore, the FBI has trained state and local law enforcement officers on trafficking issues. Training on human trafficking was included in several sessions of their National Academy programme for high ranking and executive management personnel, and also in several new Special Agent classes.<sup>101</sup>

## PRIORITY ACTIONS REQUIRED



- The United States should ratify the *Convention on the Rights of the Child* as one of the main instruments for creating a protective environment for all children. In addition, it must withdraw its reservations to the *Optional Protocol*.
- A national plan of action against the commercial sexual exploitation of children is urgently required to guide and support states to combat these crimes against children in a consistent and effective way.
- A model state law should be developed by the US Department of Justice, for approval by the states, which uniformly defines and prohibits acts related to the prostitution of children, including provisions prohibiting the arrest, detention and prosecution of prostituted children.
- State laws should be harmonised with federal laws on trafficking to ensure protection of all children up to the age of 18, regardless of the age of consent.
- The law on child pornography should be strengthened within the framework of the US Constitution and greater efforts should be made to enforce child pornography laws. Also, as a matter of urgency, mechanisms must be put in place for better identifying and assisting child victims forced to create child pornographic images.
- US federal law must be revised to ensure legal protection for domestic victims of trafficking to equal to that which exists for international immigrant victims of trafficking. A domestic federal report mirroring the international TIP Report should assess the progress of States in addressing CSEC in the US.

- The US Government should develop targeted initiatives to tackle trafficking in children for sexual purposes specifically. At both national and international level, efforts to fight trafficking should discriminate between the many different and complex forms of CSEC and take the specific action necessary to address these.
- Greater resources should be committed for combating sexual exploitation of children and youth in prostitution. More research must be undertaken to establish these violations affecting children and to better typify and quantify this particular problem, inform policies and programmes to combat it.
- An aggressive effort is required to raise awareness to prevent sexual exploitation of children. In particular, more educational initiatives are needed to better ensure the situation of children in relation to commercial sexual exploitation.
- As a preventive measure, the United States should undertake an education programme aimed at its citizens and residents who travel abroad to sexually exploit children. In addition, notification on individuals with criminal records of sexual crimes against children should be provided to relevant authorities in receiving countries.
- To strengthen efforts to fight CSEC, national-level coordination must be fostered within the different sections of Government responsible for child protection and the relevant civil society actors within these sectors.
- Training is urgently needed for law enforcement officers, Juvenile Court staff, and social service providers to help build skills and knowledge for assisting sexually exploited children adequately, thus avoiding their revictimisation. Assistance to families of affected children is also required for them to participate actively in their children's recovery.
- Support services, especially residential services, for the care and protection of all child victims of commercial sexual exploitation must be expanded. Moreover, support services for American victims of trafficking must be made available.

# Endnotes

- <sup>1</sup> Smalley, Suzanne. 'This could be Your Kid'. *Newsweek Magazine*. 18 August 2003.
- <sup>2</sup> ECPAT USA. *Who is there to help us? How the System fails sexually exploited girls in the United States*. Accessed on 29 June 2005 from: <http://www.ecpatusa.org/documents/WhoIsThereToHelpUS.pdf>
- <sup>3</sup> Children of the Night. Accessed on 12 February 2006 from: <http://www.childrenofthenight.org/tragedy.html>
- <sup>4</sup> Federal Bureau of Investigation. *Investigative Programs*. Accessed on 29 June 2005 from: <http://www.fbi.gov/hq/cid/cac/innocent.htm>
- <sup>5</sup> This is corroborated by three separate surveys of arrests of foreign tourists in other countries in the last twenty years. An ECPAT survey, published in the ECPAT Newsletter No. 17 of August 1996, showed that of 240 foreigners arrested in Asia for sexual exploitation, 24 to 25 per cent were from the United States. In 1999, *La Prensa Libre* in Costa Rica undertook a survey of 160 foreigners arrested for sexual exploitation in Costa Rica from 1992 to 1994, and found that 25 per cent were from the US. In 2000, as part of a University of Pennsylvania School of Social Work study of sexual exploitation of children in Mexico, the researcher estimated that about 25 per cent of the foreigners abusing Mexican children were from the US and Canada.
- <sup>6</sup> The Human Smuggling and Trafficking Center. *Fact Sheet: Distinctions between Human Smuggling and Human Trafficking*. April 2006.
- <sup>7</sup> New York City Community Response to Trafficking website. Accessed on 29 June 2005 from: <http://www.nyc-crt.org/>
- <sup>8</sup> Ibid
- <sup>9</sup> The Task Force includes the Secretary of State, the Attorney General, the Secretary of Labour, the Secretary of Health and Human Services, the Director of the Central Intelligence Agency, the Administrator of the Agency for International Development, the Director of the Office of Management and Budget, and the Office of the National Security Advisor.
- <sup>10</sup> Congressional Research Service. *Trafficking in Persons: The US and International Response*. January 2005. Accessed on 29 June 2005 from: <http://www.usembassy.it/pdf/other/RL30545.pdf>
- <sup>11</sup> US Department of Justice. *Assessment on US Government Activities to Combat Trafficking in Persons 2004*. Accessed on 30 June 2005 from: [http://www.usdoj.gov/crt/crim/wetf/us\\_assessment\\_2004.pdf](http://www.usdoj.gov/crt/crim/wetf/us_assessment_2004.pdf)
- <sup>12</sup> Congressional Research Service. *Trafficking in Persons: The US and International Response*. January 2005. Accessed on 29 June 2005 from: <http://www.usembassy.it/pdf/other/RL30545.pdf>
- <sup>13</sup> Embassy of the United States in Japan. *United States Cooperates with Europe to Combat Sex Trafficking*. Accessed on 30 June 2005 from: <http://tokyo.usembassy.gov/e/p/tp-20050111-37.html>
- <sup>14</sup> NetSmartZ. *About Us*. Accessed on 28 June 2005 from: <http://www.netsmartz.org/overview/aboutus>.

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- <sup>15</sup> Ibid.
- <sup>16</sup> Branch Associates. *NetSmartz Evaluation Project: Internet Safety Training for Children and Youth Ages 6 to 18*. Boys & Girls Clubs of America and National Center for Missing & Exploited Children. 2002. Accessed on 28 June 2005 from: <http://www.netsmartz.org/pdf/evalstathigh.pdf>
- <sup>17</sup> Senate Caucus on Missing, Exploited and Runaway Children. *DeWine forms Senate Caucus on Missing, Exploited and Runaway Children*. Accessed on 28 June 2005 from: <http://shelby.senate.gov/caucus/release040203.html>
- <sup>18</sup> ECPAT USA. 'The Fight against Child Sex Tourism finds Growing Support in US Government and Travel Tourism Industry'. *ECPAT USA News*. December 2004. Accessed on 29 June 2005 from: <http://www.ecpatusa.org/documents/newsletter.Dec.04.pdf>
- <sup>19</sup> US Department of Justice. *Assessment on US Government Activities to Combat Trafficking in Persons 2004*. Accessed on 30 June 2005 from: [http://www.usdoj.gov/crt/crim/wetf/us\\_assessment\\_2004.pdf](http://www.usdoj.gov/crt/crim/wetf/us_assessment_2004.pdf)
- <sup>20</sup> G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989). Entered into force 2 September 1990.
- <sup>21</sup> G.A. Res. 54/263, Annex II, 54 U.N. GAOR Supp. (No. 49) at 6, U.N. Doc. A/54/49, Vol. III (2000). Entered into force 18 January 2002.
- <sup>22</sup> Upon ratification of the *Optional Protocol* the United States declared that it understood the term "child pornography", as defined in Article 2(c) of the *Optional Protocol*, to mean the visual representation of a child engaged in real or simulated sexual activities or of the genitalia of a child where the dominant characteristic is depiction for a sexual purpose.
- <sup>23</sup> Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention 182), 38 I.L.M. 1207 (1999). Entered into force 19 November 2000.
- <sup>24</sup> G.A. res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol. I) (2001).
- <sup>25</sup> ECPAT USA. *Who is there to Help Us? How the System Fails Sexually Exploited Girls in the United States*. Accessed on 29 June 2005 from: <http://www.ecpatusa.org/documents/WhoIsThereToHelpUS.pdf>
- <sup>26</sup> Ibid.
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- <sup>29</sup> 18 U.S.C. Section 3299.
- <sup>30</sup> 18 U.S.C. Section 2422(b).
- <sup>31</sup> Ibid.
- <sup>32</sup> 18 U.S.C. Section 2423(a).
- <sup>33</sup> Ibid.
- <sup>34</sup> 18 U.S.C. Section 2425. Forty states have enacted electronic luring statutes; a list of state statutes can be accessed through the website [http://www.ndaa-apri.org/pdf/statute\\_computer\\_facilitated\\_luring\\_child\\_2006.pdf](http://www.ndaa-apri.org/pdf/statute_computer_facilitated_luring_child_2006.pdf).
- <sup>35</sup> 18 U.S.C. Section 2426(a).
- <sup>36</sup> Ibid. Section 2245(a).
- <sup>37</sup> Ibid. Section 2423(b).
- <sup>38</sup> Ibid. Section 2423(f).
- <sup>39</sup> Ibid. Section 2423(c).

- <sup>40</sup> Ibid. Section 2423(d).
- <sup>41</sup> Ibid. Sections 2423(b), (c), (d). Attempts and conspiracy to violate these provisions, as well as 18 U.S.C. section 2423(a) (transporting a person under 18 years of age for purposes of prostitution), are subject to the same punishment as the completed violation. 18 U.S.C. Section 2423(e).
- <sup>42</sup> 18 U.S.C. Section 2423(g). This provision also applies to 18 U.S.C. section 2423(a), transporting a person under 18 years of age for purposes of prostitution.
- <sup>43</sup> Shared Hope International, ECPAT-USA, The Protection Project of the Johns Hopkins University School of Advanced International Studies. Report from the U.S. Mid-Term Review on the Commercial Sexual Exploitation of Children in America, page 14.
- <sup>44</sup> 18 U.S.C. Section 1591(a)(1).
- <sup>45</sup> Ibid. Section 1591(c)(1).
- <sup>46</sup> Ibid. Section 1591(a)(2).
- <sup>47</sup> Ibid. Section 1591(b)(1).
- <sup>48</sup> Ibid. Section 1591(b)(2).
- <sup>49</sup> Ibid. Section 1594(a).
- <sup>50</sup> Ibid. Section 1592(a)(1), (2).
- <sup>51</sup> Ibid. Section 1592(a)(3); 22 U.S.C. section 7102(8)(A).
- <sup>52</sup> Ibid. Section 1592(a).
- <sup>53</sup> Ibid. Section 1593.
- <sup>54</sup> 22 U.S.C. Section 7105(b)(1).
- <sup>55</sup> Ibid. Sections 7105(c)(1), (2), (3).
- <sup>56</sup> Ibid. Section 7105(a).
- <sup>57</sup> See 22 U.S.C. Section 7107 (outlining requirement for annual report to Congress on countries' efforts to combat trafficking); United States, Department of State. *Trafficking in Persons Report*. Accessed on 12 July 2005 from: <http://www.state.gov/g/tip/rls/tiprpt/2004/>
- <sup>58</sup> 18 U.S.C. Section 2256(8).
- <sup>59</sup> 18 U.S.C. Section 2251(a).
- <sup>60</sup> Ibid.
- <sup>61</sup> 18 U.S.C. Section 2251(b).
- <sup>62</sup> Ibid. Sections 2251(a), (b).
- <sup>63</sup> Ibid. Section 2251(c).
- <sup>64</sup> Ibid. Section 2251(d).
- <sup>65</sup> Ibid. Section 2251(e).
- <sup>66</sup> Ibid. Sections 2251A(a), (b).
- <sup>67</sup> Ibid. Section 2251A(c).
- <sup>68</sup> Ibid. Sections 2251A(a), (b).
- <sup>69</sup> Ibid. Sections 2252(a)(1), (2), (3).
- <sup>70</sup> Ibid. Section 2252(b)(1).
- <sup>71</sup> Ibid. Section 2252(a)(4).
- <sup>72</sup> Ibid. Section 2252(c).
- <sup>73</sup> Ibid. Section 2252(b)(2).
- <sup>74</sup> Ibid. Section 2252A(e).
- <sup>75</sup> Ibid. Section 2255.
- <sup>76</sup> See 18 U.S.C. Section 2423.
- <sup>77</sup> See 18 U.S.C. Section 2260.
- <sup>78</sup> 18 U.S.C. Sections 2423(b).
- <sup>79</sup> Ibid. Section 2423(f).
- <sup>80</sup> Ibid. Section 2423(c).
- <sup>81</sup> Ibid. Section 2423(d).

- <sup>82</sup> Ibid. Section 2260(a).
- <sup>83</sup> Ibid. Sections 2260(c)(1), 2251(e).
- <sup>84</sup> Ibid. Section 2260(b).
- <sup>85</sup> Ibid. Sections 2260(c)(2), 2252(b)(1).
- <sup>86</sup> US Immigration and Customs Enforcement. *Predator*. Accessed on 12 July 2005 from: <http://www.ice.gov/graphics/predator/index.htm>
- <sup>87</sup> US Immigration and Customs Enforcement. *About ICE*. Accessed on 12 July 2005 from: [www.ice.gov/graphics/index.htm](http://www.ice.gov/graphics/index.htm)
- <sup>88</sup> The AMBER Alert programme is a voluntary partnership between law enforcement agencies and broadcasters to activate an urgent bulletin in the most serious child-abduction cases. For more information see: <http://codeamber.org>
- <sup>89</sup> Department of Justice. *Fact Sheet Protect Act*. Accessed on 28 June 2005 from: [http://www.usdoj.gov/opa/pr/2003/April/03\\_ag\\_266.htm](http://www.usdoj.gov/opa/pr/2003/April/03_ag_266.htm)
- <sup>90</sup> Ibid.
- <sup>91</sup> National Centre for Missing and Exploited Children. *Annual Report 2004*. Accessed on 28 June 2005 from: [http://www.missingkids.com/en\\_US/publications/NC92part1.pdf](http://www.missingkids.com/en_US/publications/NC92part1.pdf)
- <sup>92</sup> Ibid.
- <sup>93</sup> ECPAT USA. *Who is there to Help Us? How the System Fails Sexually Exploited Girls in the United States*. Accessed on 29 June 2005 from: <http://www.ecpatusa.org/documents/WhoIsThereToHelpUS.pdf>
- <sup>94</sup> US Department of State. Accessed 12 February 2006 from: <http://usinfo.state.gov/gi/Archive/2006/Jan/11-191763.html>
- <sup>95</sup> Congressional Research Service. *Trafficking in Persons: The US and International Response*. January 2005. Accessed on 29 June 2005 from: <http://www.usembassy.it/pdf/other/RL30545.pdf>
- <sup>96</sup> The text of the law can be found at: <http://www.acf.hhs.gov/programs/fysb/PL108-96.pdf>
- <sup>97</sup> Centre for Law and Social Policy. *Leave no Youth Behind*. July 2003. Accessed on 29 June 2005 from: [http://www.clasp.org/publications/Disconnected\\_Youth.pdf](http://www.clasp.org/publications/Disconnected_Youth.pdf)
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- <sup>99</sup> National Centre for Missing and Exploited Children. *National Centre for Missing and Exploited Children*. Accessed on 28 June 2005 from: [http://www.ncmec.org/en\\_US/documents/ncmec\\_backgroundunder.pdf](http://www.ncmec.org/en_US/documents/ncmec_backgroundunder.pdf)
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- <sup>101</sup> US Department of Justice. *Assessment on US Government Activities to Combat Trafficking in Persons 2004*. Accessed on 30 June 2005 from: [http://www.usdoj.gov/crt/crim/wetf/us\\_assessment\\_2004.pdf](http://www.usdoj.gov/crt/crim/wetf/us_assessment_2004.pdf)



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