



Global Monitoring



Report on the
status of action against commercial
sexual exploitation of children

NEW ZEALAND



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Glossary of terms and acronyms

AIDS: Acquired Immune Deficiency Syndrome

CAT: Child Abuse Teams

CBO: Community-based organisation

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

CRC: Convention on the Rights of the Child

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.

DSAC: Doctors for Sexual Abuse Care

EAP: East Asia and Pacific

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

Grooming: Preparing a child for sexual abuse and exploitation

HIV: Human immunodeficiency virus

ICT: Information and communication technology

ICTSD: International Centre for Trade and Sustainable Development

ILO: International Labour Organization
ILO/IPEC: International Labour Organization/ International Programme on the Elimination of Child Labour
INGO: International non-governmental organization
INHOPE: International Association of Internet Hotlines
IOM: International Organization for Migration
ISP: Internet service provider
IT: Information technology
MoU: Memorandum of Understanding
NGO: Non-governmental organization
NPA: National plan of action
NZAID: New Zealand's International Aid and Development Agency
P2P: Peer-to-Peer
STIs: Sexually transmitted infections
UN: United Nations
UNDP: United Nations Development Programme
UNESCAP: United Nations Economic and Social Commission for Asia and the Pacific
UNHCR: United Nations High Commissioner for Refugees
UNICEF: United Nations Children's Fund
UNOHCHR: United Nations Office of the High Commissioner for Human Rights
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.

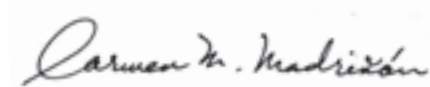
Experience demonstrates that the level of responsibility and role that a government takes to set and uphold standards of protection, like the lead taken for protecting children's rights, determines the nature, quantity and quality of what the country achieves for its children. Governments can and have 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 Madrián
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 organisations 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 organisations, 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 for further details); and (vi) priority actions required.

A map showing the Pacific region, including New Zealand, Australia, and parts of Southeast Asia. New Zealand is highlighted in red.

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The exact scale and nature of the prostitution of children in New Zealand remains unclear due to a lack of comprehensive research. According to the New Zealand Human Rights Commission, a “small but significant” number of children are being commercially sexually exploited in the country.¹ A survey of police, health and social workers, undertaken to provide a baseline snapshot of prostitution before the law reform in 2003, estimated about 200 children under 18 to be involved, predominantly in the street sector of large urban centres. The New Zealand Prostitutes Collective, however, believes this figure to be inflated.² An ECPAT New Zealand survey of 47 individuals aged 15 to 47, involved in prostitution, found that the average age for first receiving payment for sexual acts was 14.5 years old. The survey also found that children entered prostitution for a variety of reasons: homelessness, family breakdown, pressure from friends already involved in prostitution, sexual abuse, poverty, drug and alcohol misuse, educational underachievement or unemployment.³ The prostitution of children is reported throughout the country, in rural districts and towns, as well as in cities.⁴

In addition, New Zealanders are among child sex abusers overseas, and charges have been brought against nationals in countries such as India, Fiji, Thailand and Cambodia, in recent years. In general, the travel industry in New Zealand is not aware of the issue of child sex tourism or of the country’s extraterritorial laws against it.

To date there have been no reported cases of trafficking in children for sexual purposes.⁵ However, the Human Rights Commission and the police acknowledge that New Zealand could potentially be affected by this increasingly global problem.⁶

On the other hand, child pornography and sexual exploitation of children through information technology (IT) is escalating in New Zealand. The problem seems to be associated with the possession and distribution of imported pornography, as opposed to the production of child pornography within the country.⁷ Action against child pornography

on the Internet comprises the biggest part of the work of the Department of Internal Affairs Censorship Compliance Unit, with convictions currently averaging more than two a month. The Department has also come across offenders sharing information on how to meet children and, in some cases, offering children for abuse. While few of the images found over the years have actually been of New Zealand children, the Department says research into offenders within the country and overseas has repeatedly confirmed the correlation between offenders who collect and distribute child sex abuse images and those who have been involved in other offences against children.⁸ Internet child pornography offenders are overwhelmingly Caucasian males, with more than half aged under 30. About a quarter of those caught trading in child sex abuse images are teenage boys aged 14 to 19. While Internet Relay Chat (IRC) has been a favoured means of trading images, the Department's censorship inspectors report a significant shift to peer-to-peer (P2P) systems.⁹

New Zealand adopted the *Stockholm Declaration and Agenda for Action* in 1996 and reaffirmed its commitment in Yokohama in 2001 .

NATIONAL PLAN OF ACTION (NPA)

New Zealand finalised its National Plan of Action against Commercial Sexual Exploitation of Children (CSEC) - entitled *Protecting Our Innocence* - in December 2001 .

Protecting Our Innocence allocated responsibilities to 15 government agencies and four non-governmental organizations (NGOs) to implement 13 key objectives, including: research into the commercial sexual exploitation of children and identifying gaps in legislation and services; raising public and political awareness; improving legislation, law enforcement, and child-friendly legal procedures; prevention through education and by reducing the socio-economic factors that can render children vulnerable to sexual exploitation; resources for rescue and reintegration; child participation and advocacy; and cooperation and coordination.¹⁰

Nevertheless, *Protecting Our Innocence* is rarely, if ever, referred to in related government policies or work programmes,¹¹ even when they address specific objectives and activities of the NPA.¹² In 2006, ECPAT New Zealand and the Ministry of Justice completed an

assessment of progress on implementing the NPA. It identified that very little coordination had taken place to implement the Plan effectively. Other weak points included the absence of a timeframe, insufficient provisions for properly undertaking the envisaged initiatives, and the lack of a monitoring system.

COORDINATION AND COOPERATION

Local and National Level

There is no national coordination for implementing the Plan, *Protecting Our Innocence*, nor any formal group which brings together organisations involved in work against the commercial sexual exploitation of children.

A 2004 Human Rights Commission review of human rights in New Zealand concluded that there was no coordinated, effective programme to prevent CSEC or to rehabilitate child victims. Neither the review nor the subsequent *National Action Plan for Human Rights* (2005-2010) mentioned *Protecting Our Innocence* or offered suggestions for improving coordination.¹³

However, there are some instances of multi-agency coordination against CSEC as part of a broader focus: examples include the Internet Safety Group's extensive work with government agencies, schools, businesses and NGOs against online sexual exploitation of children;¹⁴ and the Department of Child, Youth and Family's coordination of care and protection services for child victims of sexual violence.¹⁵ In South Auckland, a group of government, local authority and non-governmental representatives have been meeting regularly for five years to share information, raise awareness and develop solutions to local issues around the commercial sexual exploitation of children.

Regional and International Level

New Zealand has played an active role in coordinating action against CSEC in the region.

Following the ‘Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime’ held in 2003, New Zealand became the coordinator for regional and international cooperation on policy issues and legal frameworks for the Bali Process. The New Zealand Government is a member of its informal Steering Committee, together with Indonesia, Thailand, Australia, the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Refugees (UNHCR).¹⁶

Following the ‘Pacific Regional Consultation on Combating Poverty and the Commercial Sexual Exploitation of Children and Youth’ held in Fiji in 2003 [organised as a follow up to Yokohama by the Inter-Agency Group comprising the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), United Nations Children’s Fund (UNICEF) and ECPAT International], a New Zealand Customs staff member, with extensive knowledge of cross border enforcement of child pornography offences and related policy issues, is helping the Pacific Islands Forum Regional Security Committee’s working group to draft model legislation to combat sex crimes.

In addition, the Ministry of Internal Affairs is contributing to research on profiling Internet traders of child pornography, under the Combating Paedophile Information Networks in Europe (COPINE) Project at the University of Cork in Ireland. New Zealand’s International Aid and Development Agency (NZAID) has consistently supported projects targeting CSEC in the Asia Pacific region.

PREVENTION

Extensive work is being done to prevent the sexual exploitation of children through information technology.

As the Ministry of Education's preferred provider of cyber-safety education, the Internet Safety Group is responsible for promoting safe Internet policies for children through their NetSafe® Programme. It provides education and materials through schools for children, teachers and parents. The NetSafe® website is considered to be one of the largest and most in-depth websites on cyber safety in the world. The Internet Safety Group also co-organised conferences on the issue in Auckland in 2002 and 2003, and worked with Vodafone and Telecom on educational material for their websites.

Widespread blocking of child pornography on the way

Two systems for preventing online access to websites with child sexual abuse images are under consideration for use in New Zealand: the first one, used by British Internet service providers (ISPs), is being tested by the Department of Internal Affairs, InternetNZ and the Internet Safety Group; the second one, developed by ECPAT Sweden, is being considered by the Internal Affairs Department and ECPAT New Zealand (NZ).

With support from the Ministry of Justice, ECPAT NZ distributed 540,000 Internet safety pamphlets, in English and Maori, to parents of primary school children. ECPAT NZ also developed an Internet Resource Kit for parents, caregivers, educators, schools and children.¹⁷

Department of Internal Affairs active in prevention

The Department of Internal Affairs has drafted a code of Internet use for schools and businesses, and developed a *Code of Practice for Internet Service Providers* with the non-profit group InternetNZ. The Department monitors the content of Internet newsgroups for ISPs and offers guidance on their suitability. Internal Affairs also provides leaflets on combating online sexual exploitation for computer repair outlets, Internet cafés and computer game parlours, and an information video for lawyers and judges on importing and trading objectionable materials via the Internet.

Rehabilitation of child sex offenders

Prison-based programmes to prevent re-offending by child sex offenders are run by the Department of Corrections and community treatment programmes by STOP Sexual Abuse and the SAFE Network. Evaluations have shown such programmes to be effective in significantly reducing re-offending.¹⁸

The Internet Safety Group is also working with the Department of Internal Affairs Censorship Compliance officers, the Ministry of Justice, the Department of Corrections, Customs, the Police, the SAFE Network and STOP on best practices for dealing with child pornography offenders, including teenagers, once they have been caught.

PROTECTION

New Zealand ratified the *Convention on the Rights of the Child (CRC)* in 1993 and signed the *Optional Protocol on the sale of children, child prostitution and child pornography (Optional Protocol)* in 2000, but has not ratified it to date (pending an amendment to the *Adoption Act 1955* to allow its extraterritorial application for inter-country adoptions). New Zealand ratified *ILO Convention No. 182* in 2001 and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)* in 2002.

Legislation

Despite its failure to ratify the *Optional Protocol*, in recent years New Zealand has enacted strong legislation to protect children against prostitution, pornography and trafficking for sexual purposes – as detailed in the stocktake of the *National Plan of Action (2006)*. New Zealand has some of the most comprehensive child pornography laws in existence.

Prostitution of Children

New Zealand law offers comprehensive protection against the prostitution of children. It conforms to international standards as it prohibits commercial sexual services with a person

under 18 years of age for monetary or other compensation. The definition of commercial sexual services – physical participation in sexual acts for another person’s gratification – is as broad as the sexual activity contemplated by the *Optional Protocol*; and, as required by the *Optional Protocol*, it criminalises obtaining, procuring or providing a child for prostitution.

Although the *Prostitution Reform Act 2003* decriminalised adult prostitution, prostitution of any person under 18 years of age is a criminal offence. Under this Act, “commercial sexual services” include a person’s physical participation in sexual acts with and for another person’s gratification, for payment or other reward to the person providing sexual services or a third party;¹⁹ “prostitution” is the provision of commercial sexual services.²⁰

It is illegal to cause, assist, facilitate, encourage, contract for or arrange the prostitution of a person under 18 years of age.²¹ Nor may a person receive a payment or other reward that s/he reasonably should know is directly or indirectly a result of commercial sexual services provided by a person under 18 years of age.²² It is also illegal to receive commercial sexual services from a person below the age of 18.²³ Furthermore, the law protects persons under 18 years of age from prosecution as a party to any of these offences;²⁴ the offence outlined by this law may be punished with up to seven years’ imprisonment.²⁵

New legislation still poorly enforced

In the first two years of the *Prostitution Reform Act 2003*, there were 48 charges laid for the use in prostitution of persons under the age of 18 and five people convicted, with sentences ranging from two years in prison to a fine and community service.²⁶ The first conviction of a client of underage prostitution occurred in 2005. The police have been criticised by NGOs such as ECPAT NZ and the STOP Demand Foundation for the lack of prosecutions of people who pay for sex with children under the Act.²⁷

Trafficking in Children for Sexual Purposes

New Zealand law meets international standards for child trafficking as it criminalises the trafficking-related activities outlined in the *Optional Protocol*, such as prostitution of children, the offences of which are outlined in the *Prostitution Reform Act 2003*.

The law makes it illegal to sell, buy, transfer, barter, rent, hire, enter into any dealing, detain, confine, imprison, carry away, remove, receive, transport, import, or bring into any place a person under 18 years of age for purposes of sexual exploitation.²⁸ It further prohibits inducing a person under 18 years of age to sell, rent or give him or herself for purposes of sexual exploitation, or inducing a person to sell, rent, or give another person under 18 years of age for purposes of sexual exploitation.²⁹ Building, selling, buying, transferring, renting, hiring, staffing, navigating or serving on board a ship, aircraft or other vehicle for purposes of doing any act outlined under the law is also an offence, as is agreeing or offering to do any of the acts outlined under the law.³⁰ The law protects persons under 18 years of age from prosecution as a party to any of these offences.³¹ Violators may be punished with up to fourteen years' imprisonment,³² and a defence to this law is that the offender reasonably believed that the person was 18 or older.³³

Furthermore, New Zealand law prohibits “dealing in persons under 18 years of age for sexual exploitation”.³⁴ Sexual exploitation includes: taking or transmitting still or moving images of a person engaged in explicit real or simulated sexual activities;³⁵ taking or transmitting, for a material benefit, still or moving images of a person's genitalia, anus or breasts;³⁶ or a person's participation in a performance, display or activity undertaken for a material benefit and involving exposure of the person's genitalia, anus or breasts.³⁷

By March 2006 there had not been any reported cases of trafficking in children for sexual purposes, and no prosecutions in New Zealand for trafficking in persons.³⁸

Child Pornography

New Zealand law meets international standards for child pornography: it defines objectionable material in conformity with the *Optional Protocol's* standards for child pornographic images, and criminalises all of the activities outlined by the *Optional Protocol*, including the mere possession of child pornographic images. As previously mentioned, New Zealand has some of the most comprehensive child pornography laws in the world.

Child pornography offences are dealt with primarily under New Zealand censorship and customs laws. The *Films, Videos, and Publications Classification Amendment Act 2005* considerably broadened offences related to child pornography and increased various

penalties. The Act also gave greater powers to enforcement agencies to search for and seize material, and made it easier to extradite New Zealanders to face trial.³⁹

New Zealand law thus outlines offences related to the creation, possession and distribution of “objectionable publications”. Objectionable material includes publications that describe, depict, express or otherwise relate to sex; more specifically, a publication deals with sex where it contains one or more visual images of one or more children or young persons who are nude or partially nude and these images, alone or together, can reasonably be regarded as sexual in nature.⁴⁰ Other factors that determine if a publication is objectionable include whether it promotes, supports or tends to promote or support the exploitation of children or young persons for sexual purposes;⁴¹ describes, depicts or otherwise deals with sexual conduct by children or young persons;⁴² or exploits the nudity of children or young persons.⁴³ Publications include printed matter, film, sound recordings, photographs, negatives, plates, or slides; or anything, including a disk or electronic or computer file, on which information is recorded or stored and (using a computer or other device) can be reproduced or shown as one or more images, representations, signs, statements or words.⁴⁴

The *Films, Videos and Publications Classification Act* prohibits making objectionable material;⁴⁵ copying, importing, or possessing objectionable material for purposes of supply or distribution;⁴⁶ supplying or distributing objectionable material;⁴⁷ or displaying or exhibiting objectionable material in exchange for payment or other benefit.⁴⁸ Individual violators may be punished with a fine of up to NZ\$ 10,000 (approx. US\$ 6,215), while corporate violators may be punished with a fine of up to NZ\$ 30,000 (US\$ 18,640).⁴⁹ It is not a defence that a person did not know or had reasonable cause to believe that the publication at issue was objectionable.⁵⁰ In addition, supplying, distributing or importing a publication under this law includes physical as well as electronic transmission, such as by electronic mail or facsimile.⁵¹ The law does not apply to those who provide only some of the means necessary to deliver or transmit a publication; thus, postal carriers, couriers, or ISPs that only provide a facility by which a publication is transmitted are not within the scope of this law.⁵²

While the above offences under section 123(1) of the *Films, Videos and Publications Classification Act* are “strict liability” provisions that do not require knowledge, the law increases penalties for persons who know or have reasonable cause to believe that a publication is objectionable. In that case, individual violators may be punished with up to ten years’ imprisonment, while corporate violators may be punished with a fine of up to NZ\$ 200,000 (US\$ 124,320).⁵³

New Zealand law also punishes the mere possession of objectionable material. Individual violators may be punished with a fine of up to NZ\$ 10,000 (US\$ 6,215), while corporate violators may be punished with a fine of up to NZ\$ 30,000 (US\$ 18,640).⁵⁴ It is not a defence that the offender did not know or have reasonable cause to believe that the publication at issue was objectionable,⁵⁵ but the law contains defences for lawful uses of objectionable material, such as in connection with legal proceedings or providing legal advice, among others.⁵⁶ Moreover, a person who knowingly possesses objectionable material (or having reasonable cause to believe that a publication is objectionable) is subject to increased penalties.⁵⁷ Individual violators may be punished with up to five years' imprisonment or a fine of up to NZ\$ 50,000 (US\$ 31,000), while corporate violators may be punished with a fine of up to NZ\$ 100,000 (US\$ 62,000).⁵⁸

Furthermore, importing and exporting objectionable publications are prohibited.⁵⁹ Depending on the violation committed, individual violators may be punished with a fine of up to NZ\$ 5,000 or up to five years' imprisonment; corporate violators may be punished with a fine of between NZ\$ 10,000 (US\$ 6,215) and NZ\$ 100,000 (US\$ 62,000).⁶⁰

Legislation against 'grooming': a valuable contribution to the protection of children

The *Crimes Amendment Act 2005* prohibited sexual grooming of a child under 16 years of age. As such, it is now illegal, after an initial contact with a child, for a person to meet, travel, or arrange for the child to travel, with the intention of meeting the child to commit a sexual offence or an offence related to dealing in children, whether in or outside New Zealand.⁶¹ Defences to this offence include taking reasonable steps to ensure or reasonably believing that the child is 16 years or older.⁶² Such provisions are particularly important to punish the grooming that is often associated with the sexual exploitation of children online; this specific law can also be applied to trafficking in children for sexual purposes.

Extraterritorial Legislation

The *Crimes Amendment Act 2005* created a new extraterritorial offence that makes it illegal to engage in certain sexual conduct with children overseas that would be an offence if it occurred in New Zealand.⁶³ These offences include sexual intercourse and attempted sexual intercourse with children under 16 years of age. The *1993 Films, Videos and Publications Classification Act* also provides for extraterritorial jurisdiction of offences related to child pornography, in light of the *Optional Protocol*.⁶⁴

Furthermore, it is illegal to promote child sex tours by facilitating or organising travel arrangements for a person, or transporting a person to a place outside New Zealand, with the intention that the person will commit a sexual offence as outlined in section 144a of the *Crimes Amendment Act*, regardless of whether any offence is actually committed. Violators may be punished with up to seven years' imprisonment.⁶⁵

There have been no prosecutions for sexual conduct with children outside New Zealand or for organising or promoting child sex tours since extraterritorial legislation was created in 1995. Nor has there been much direct enforcement activity.⁶⁶

Child Protection Units

The Auckland City Police District maintains the country's only unit dealing with sexual crimes against children.⁶⁷

Investigations of child abuse complaints, including commercial sexual exploitation, are carried out jointly by members of Police Child Abuse Teams (CAT) and the Department of Child, Youth and Family. Police CAT members must have specialised training in the investigation of child abuse, and some are trained in interviewing child victims. Child, Youth and Family social workers are also required to have training in all areas of child protection, including talking to children about abuse, and they have access to psychologists and therapists to assist with interviewing child victims. The safety of the child is assessed as soon as possible after the complaint has been made, and the Child, Youth and Family social workers have legal authority to take appropriate action – directly and through Family Group Conferences. Medical examinations for child victims are usually provided by Doctors for Sexual Abuse Care (DSAC), a national organisation for ensuring that specialist medical care is available to people who are sexually abused or assaulted. DSAC provides regular training and seminars for doctors and allied professionals, and has a rigorous system of accreditation for medical examiners that has final approval through the Police Chief Medical Officer.⁶⁸

The Police and the Department of Child, Youth and Family have a joint agreement on policy and guidelines for investigating complaints of child abuse, which covers child-friendly procedures.⁶⁹ They can also seek advice from local care and protection resource

panels. Interviews with child victims are usually conducted away from the police station, in rooms decorated so as not to intimidate the child. The interviews are often videotaped and may be used in Court.⁷⁰ Since 1990, legislation and regularly-updated regulations have set out procedures for complainants under 17, for sexual crimes, to give evidence in Court by pre-recorded videotape, on closed-circuit television (CCTV), or from behind a screen or one-way glass.⁷¹

New Zealand considers it has one of the most effective regimes in the world for detecting and tracking people who use the Internet to collect and distribute child sex abuse images. The Department of Internal Affairs, the Police and Customs work together to enforce the laws against child pornography. Generally, Internal Affairs focuses on Internet offending, the Police deal with physical offending and Customs deals with importation. Internal Affairs inspectors maintain a covert presence on the Internet, scrutinising bulletin boards, websites, IRC channels and P2P networks.

Support Services for Children

There is no nationwide programme to provide recovery and reintegration services for child victims of commercial sexual exploitation specifically, but rather some isolated specialist local services.

In Auckland, for instance, Baptist Action runs a 'safe house' for self-referrals and homeless girls under 18 involved in commercial sexual activity referred by the Department of Child, Youth and Family. The safe house can accommodate up to six girls only. In Christchurch, the non-profit organisation Youth and Cultural Development runs a project for children under 18 involved in or at risk of prostitution, including outreach services on the streets, a drop-in service, sexual health checks and home visits.

For cases of sexual violence and abuse, nationwide crisis response services are provided by specialist Police Child Abuse Teams and the Department of Child, Youth and Family. Emergency support services and counselling are also available through non-profit groups such


as Victim Support, the New Zealand Rape Crisis network, the National Collective of Independent Women's Refuges, and the Lifeline, Youthline, Parentline, Samaritans and NetSafe® helplines. Government agencies coordinate income, employment and housing assistance for 16 to 18 year-olds leaving the care of the Department of Child, Youth and Family.⁷²

A number of interesting training initiatives are taking place for professionals dealing with CSEC cases. The Internet Safety Group, SAFE, the New Zealand Association of Counsellors and the University of Auckland have developed a national module for counsellors on protecting children from online grooming for sexual abuse. Similar modules are planned for social workers and mental health professionals.

Training Law Enforcement Personnel

Training of law enforcers has been conducted to increase levels of knowledge on CSEC, especially on the protection of children from being harmed by information communication and technology (ICT).

An interesting initiative to mention is the training provided by the Internet Safety Group for all police youth education service officers and counsellors on how to protect children from abuse in the online environment.⁷³



**PRIORITY
ACTIONS
REQUIRED**

- The Government should provide adequate provisions for implementing and monitoring the Plan, *Protecting Our Innocence*, particularly in relation to allocation of adequate resources, coordination and monitoring.
- New Zealand must ratify the *Optional Protocol on the sale of children, child prostitution and child pornography (Optional Protocol)*.
- New Zealand law should be strengthened to provide a clear definition of sexual exploitation covering any sexual act with a child up to the age of 18 for remuneration or other forms of consideration, in conformity with the *Optional Protocol*, and to consistently protect all children up to the age of 18.
- The Government should identify a lead agency to ensure that many statutory departments and agencies (together with NGOs) are working together to achieve the goals of the National Plan of Action against commercial sexual exploitation of children.
- More research is needed on the scale and nature of children under 18 years old involved in prostitution; appropriate interventions and services to meet the needs of these children must then be designed and implemented.

- Research is also needed to assess the impact of the *Prostitution Reform Act 2003*. Its enforcement remains extremely poor: few prosecutions of offenders have taken place since the promulgation of the Act.
- Interventions and services need to be accessible to children in especially difficult circumstances, such as those living on the streets, victims of domestic violence and/or those addicted to substance abuse.
- Law enforcement against sexual exploitation with children outside New Zealand and child sex tourism needs to be rigorously applied (in view of the absence of prosecutions since extraterritorial legislation was created in 1995).
- Initiatives to increase awareness of child sex tourism and New Zealand's legislation against it must be implemented, targeting the tourism industry and the travelling public to support prevention work and increase levels of reporting.
- A nationwide programme for the rehabilitation and reintegration of CSEC victims must be urgently developed to ensure efficient referral of cases and that all areas of the country are covered.

Endnotes

- ¹ New Zealand Human Rights Commission. *Chapter 4 – The Rights of Children and Young People, Human Rights in New Zealand Today*. September 2004. Accessed on 15 June 2005 from: <http://www.hrc.co.nz/report/chapters/chapter04/children04.html#nee>
- ² New Zealand Prostitution Law Review Committee. *The Nature and Extent of the Sex Industry in New Zealand: An Estimation*. April 2005. Accessed on 15 June 2006 from: <http://www.justice.govt.nz/pubs/reports/2005/nature-extent-sex-industry-in-nz-estimation/nature-extent-sex-industry.pdf>. For similar estimates see also Dr Miriam Saphira. *The Commercial Exploitation of Children in New Zealand/Aotearoa*. ECPAT New Zealand. 2001. Research into under-18 prostitution in New Zealand is expected to form part of a report due in 2008 by the Prostitution Law Review Committee on the operation of the *Prostitution Reform Act 2003*.
- ³ Saphira, Miriam. *The Involvement of Children in Commercial Sexual Activity*. ECPAT New Zealand. 2004.
- ⁴ Ministry of Justice. 'Protecting our innocence'. *National Plan of Action against the Commercial Sexual Exploitation of Children*. 2001.
- ⁵ United States State Department. *Country Reports on Human Rights Practices 2005: New Zealand*. March 2006. Accessed on 15 June 2006 from: <http://www.state.gov/g/drl/rls/hrrpt/2005/61621.htm>. Also, New Zealand Ministry of Foreign Affairs and Trade. *Post-Election Brief*. September 2005. Accessed on 15 June 2006 from: http://www.mfat.govt.nz/about/oppu/postelectionbrief/peb6.html#People_Smuggling_and_Illegal_Migration.
- ⁶ Ministry of Justice. 'Protecting our innocence'. *National Plan of Action against the Commercial Sexual Exploitation of Children*. 2001.
- ⁷ Ibid.
- ⁸ O'Brien, Steve (Department of Internal Affairs Censorship Compliance Unit). NetSafe®: The Internet Safety Group. Accessed on 15 June 2006 from: http://www.netsafe.org.nz/law/law_dia.aspx. Also, New Zealand Department of Internal Affairs. *Child sex abuse images: third sentencing in two weeks*. Press release, 10 February 2005. Accessed on 17 March 2006 from: <http://www.dia.govt.nz/web/press.nsf/d77da9b523f12931cc256ac5000d19b6/4d41c9d9c96d24f9cc256fa40071d579!OpenDocument>.
- ⁹ Sullivan, Caroline (New Zealand Department of Internal Affairs Censorship Compliance Unit). *Internet Traders of Child Pornography: Profiling Research Update*. October 2005. Accessed on 15 June 2006 from: http://www.censorship.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Our-Research-and-Reports-Internet-Traders-of-Child-Pornography-and-other-Censorship-Offenders-in-New-Zealand?OpenDocument
- ¹⁰ New Zealand Ministry of Justice. *Protecting Our Innocence: New Zealand's National Plan of Action against the Commercial Sexual Exploitation of Children*. December 2001. Accessed on 15 June 2006 from: <http://www.justice.govt.nz/pubs/reports/2002/protect-innocence/index.html>.
- ¹¹ For example, there is no mention of *Protecting Our Innocence* in these major, related government policies: New Zealand Ministry of Social Development. *Agenda for Children*. 2002. Accessed on 15 June

- 2006 from: <http://www.msd.govt.nz/work-areas/children-and-young-people/agenda-for-children/action-areas-update.html#ActionAreaFour>; New Zealand Ministry of Social Development. *Te Rito: New Zealand Family Violence Prevention Strategy*. 2002. Accessed on 15 June 2006 from: <http://www.msd.govt.nz/publications/te-rito/>; New Zealand Ministry of Social Development. *Care and Protection Blueprint*. 2003. Accessed on 15 June 2006 from: <http://www.dsw.govt.nz/publications/care-protection-blueprint-2003/index.html>; or New Zealand Ministry of Justice. *Safer Communities: Action Plan to Reduce Community Violence and Sexual Violence*. 2004. Accessed on 15 June 2006 from: <http://www.justice.govt.nz/pubs/reports/2004/action-plan-community-sexual-violence/index.htm>.
- ¹² For example, the Ministry of Youth Development's 2004 five-year work programme on the Convention on the Rights of the Child includes monitoring of progress towards ratification of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and improving assistance to victims of child abuse, <http://www.myd.govt.nz/uploads/docs/00.7.5.3%20uncroc2004-08.pdf>. Similarly, as part of its 2004 Action Plan to Reduce Community Violence and Sexual Violence, the Ministry of Justice funds three pilot sexual violence programmes, which may include child sex offenders, and a pilot treatment programme for adults charged with or convicted of Internet child pornography offences, <http://www.justice.govt.nz/pubs/reports/2004/action-plan-community-sexual-violence/chapter-8.htm#Key%20Current%20or%20Planned%20Initiatives%20%203>.
- ¹³ New Zealand Human Rights Commission. *Chapter 4 – the Rights of Children and Young People, Human Rights in New Zealand Today*. September 2004. Accessed on 15 June 2006 from: <http://www.hrc.co.nz/report/chapters/chapter04/children04.html#nee>; and, New Zealand Human Rights Commission. *Chapter 2: Getting It Right for Children and Young People, New Zealand Action Plan for Human Rights: Priorities for 2005–2010*. Accessed on 15 June 2006 from: <http://www.hrc.co.nz/report/actionplan/2children.html>.
- ¹⁴ Netsafe: The Internet Safety Group. Accessed on 15 June 2006 from: <http://www.netsafe.org.nz>.
- ¹⁵ New Zealand Department of Child, Youth and Family. Accessed on 15 June 2006 from: <http://www.cyf.govt.nz/2177.htm>.
- ¹⁶ New Zealand Ministry of Foreign Affairs and Trade. *Post-Election Brief, September 2005*. Accessed on 15 June 2006 from: http://www.mfat.govt.nz/about/oppu/postelectionbrief/peb6.html#People_Smuggling_and_Illegal_Migration.
- ¹⁷ ECPAT New Zealand, *Internet Resource Kit*. Accessed on 15 June 2006 from: <http://www.ecpat.org.nz/irksamples.htm>.
- ¹⁸ New Zealand Ministry of Justice. *Safer Communities: Action Plan to Reduce Community Violence and Sexual Violence, 2004*. Accessed on 15 June 2006 from: <http://www.justice.govt.nz/pubs/reports/2004/action-plan-community-sexual-violence/chapter-8.htm#Sexual%20Violence>.
- ¹⁹ *Prostitution Reform Act 2003*, Section 4(1).
- ²⁰ Ibid.
- ²¹ *Prostitution Reform Act 2003*, sections 20, 22(1).
- ²² Ibid. section 21.
- ²³ Ibid. section 22(2).
- ²⁴ Ibid. section 23(3).
- ²⁵ Ibid. section 23(1). Prior to the enactment of the *Prostitution Reform Act 2003*, it was a criminal offence under existing amendments to the *Crimes Act 1961* to be a client of a prostitute under 18 years of age or to procure male or female children for prostitution.
- ²⁶ Goff, Phil (Minister of Justice). *Reply to Question for Written Answer 8489 (22 July 2005) by Judy Turner, MP*. Accessed on 15 June 2006 from: <http://www.clerk.parliament.govt.nz/Publications/QuestionsForWrittenAnswerIndex.htm>. The figures cover the period June 2003 to end May 2005.
- ²⁷ Barnett, Tim (New Zealand Member of Parliament). *Prostitution Reform Act: What is the Story June 2003 to December 2005?* Accessed on 15 June 2006 from: <http://www.timbarnett.org.nz>. US State Department. *Country Reports on Human Rights Practices 2005: New Zealand*. Accessed on 08 March

- 2006 from: <http://www.state.gov/g/drl/rls/hrrpt/2005/61621.htm>. ECPAT New Zealand. "Under Age Prostitution: Child Protection Agencies Ask "Why Are Child Sex Offenders Not Prosecuted?" Scoop. 21 April 2005. Accessed on 15 June 2006 from: <http://www.scoop.co.nz/stories/PO0504/S00256.htm>.
- 28 *The Crimes Amendment Act 2005*, sections 98AA(1)(a)(i), (d)(i), (e)(i).
- 29 Ibid. Sections 98AA(1)(f)(i), (g)(i).
- 30 Ibid. Sections 98AA(1)(h),(i).
- 31 Ibid. Section 98AA(7).
- 32 Ibid. Section 98AA(1).
- 33 Ibid. Section 98AA(2).
- 34 Ibid. Section 98AA.
- 35 Ibid. Section 98AA(3)(a).
- 36 Ibid. Section 98AA(3)(b).
- 37 Ibid. Sections 98AA(3)(c), (d).
- 38 United States State Department. *Country Reports on Human Rights Practices 2005: New Zealand*. March 2006. Accessed on 15 June 2006 from: <http://www.state.gov/g/drl/rls/hrrpt/2005/61621.htm>. Also, New Zealand Ministry of Foreign Affairs and Trade. *Post-Election Brief, September 2005*. Accessed on 16 March 2006 from: [http://www.mfat.govt.nz/about/oppu/postelectionbrief/peb6.html#People Smuggling and Illegal Migration](http://www.mfat.govt.nz/about/oppu/postelectionbrief/peb6.html#People%20Smuggling%20and%20Illegal%20Migration) .
- 39 Information on the *Films, Videos, and Publications Classification Amendment Act 2005* is online at: http://www.censorship.dia.govt.nz/diawebsite.nsf/wpg_URL/Services-Censorship-Compliance-Amendment-Act-2005?OpenDocument (29 March 2005). The principal legislation is the *Films, Videos, and Publication Classification Act 1993*, online at http://www.legislation.co.nz/browse_vw.asp?content-set=pal_statutes.
- 40 *The Films, Videos and Publications Classification Act 1993*, section 3(1A).
- 41 Ibid. Section 3(2)(a).
- 42 Ibid. Section 3(3)(a)(iv).
- 43 Ibid. Section 3(3)(b).
- 44 Ibid. Section 2.
- 45 Ibid. Section 123(1)(a).
- 46 Ibid. Sections 123(1)(b), (c), (e).
- 47 Ibid. Section 123(1)(d).
- 48 Ibid. Section 123(1)(f).
- 49 Ibid. Sections 123(2)(a),(b).
- 50 Ibid. Section 123(3).
- 51 Ibid. Section 123(4).
- 52 Ibid. Sections 122(3),(4).
- 53 Ibid. Section 124.
- 54 Ibid. Section 131(1).
- 55 Ibid. Section 131(2).
- 56 Ibid. Section 131(5).
- 57 Ibid. Section 131A(1).
- 58 Ibid. Section 131A(2).
- 59 *Customs and Excise Act 1996*, sections 54(1)(aa), 56(1)(a), 209(1)(a), (b).
- 60 Ibid. Sections 209(1)(a), (b), 209(3), 209(5).
- 61 *The Crimes Amendment Act 2005*, section 131B(1).
- 62 Ibid. Section 131B(2).
- 63 Ibid. Section 144A.
- 64 *The Films, Videos and Publications Classification Act 1993*, sections 145A(1), (2).

- ⁶⁵ *The Crimes Act 1961* (Reprint 1 June 2005), section 144C.
- ⁶⁶ Statistics New Zealand. *National Annual Apprehensions for the Latest 10 Fiscal Years to 2004/05: Sexual Conduct with Child outside NZ*. Accessed on 26 March 2006 from: <http://xtabs.stats.govt.nz/eng/TableViewer/wdsview/print.asp>. New Zealand Ministry of Justice, *Protecting Our Innocence: New Zealand's National Plan of Action against the Commercial Sexual Exploitation of Children*. December 2001. Accessed on 15 June 2006 from: <http://www.justice.govt.nz/pubs/reports/2002/protect-innocence/index.html> pp.11-12.
- ⁶⁷ New Zealand Police. Accessed on 29 March 2006 from: <http://www.police.govt.nz/service/childexploitation/>.
- ⁶⁸ New Zealand Department of Child, Youth and Family. *Who's Who in Child Protection*. Accessed on 15 June 2006 from: <http://www.cyf.govt.nz/2177.htm>.
- ⁶⁹ New Zealand Department of Child, Youth and Family. *Breaking the Cycle: Interagency Protocols for Child Abuse Management*. 1996. Accessed on 15 June 2006 from: <http://www.cyf.govt.nz/text/1862.htm>.
- ⁷⁰ Ibid.
- ⁷¹ See amendments to the *Evidence Act* in 1989, the *Summary Proceedings Act* 1990, and the *Evidence (Videotaping of Child Complainants) Regulations* 1990. Accessed on 15 June 2006 from: http://www.legislation.co.nz/browse_vw.asp?content-set=pal_statutes.
- ⁷² New Zealand Ministry of Justice. *Current and Planned Initiatives, Safer Communities: Action Plan to Reduce Community Violence and Sexual Violence. 2004*. Accessed on 15 June 2006 from: <http://www.justice.govt.nz/pubs/reports/2004/action-plan-community-sexual-violence/chapter-8.htm#Key%20Current%20or%20Planned%20Initiatives%20%203>.
- ⁷³ The Internet Safety Group. Accessed on 16 May 2006 from http://www.netsafe.org.nz/training/training_default.aspx



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