



Global Monitoring

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

TAIWAN



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Glossary of terms and acronyms

AIDS: Acquired Immune Deficiency Syndrome

CBO: Community-based organisation

CIB: Criminal Investigation Bureau

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.

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

ICPs: Internet Content Providers

ICT: Information and communication technologies

ICTSD: International Centre for Trade and Sustainable Development

ILO: International Labour Organization

ILO-IPEC: International Labour Organization's International Programme on the Elimination of Child Labour

INGO: International non-governmental organization

INHOPE: International Association of Internet Hotlines

IOM: International Organization for Migration

IPs: Internet Protocols

IRC: Internet Relay Chat

ISP: Internet service provider

IT: Information technology

MoU: Memorandum of Understanding

NGO: Non-governmental organization

NPA: National plan of action

STIs: Sexually transmitted infections

TICRF: Taiwan Internet Content Rating Foundation

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.

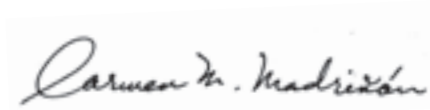
Since 1996, many actors around the world have focused their efforts around this common Agenda for Action and more government and non-government entities have linked, to ensure positive change for children and to protect their right to live free from sexual exploitation. This broad societal alliance (bolstered 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 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 for further details); and (vi) priority actions required.



TAIWAN

Taiwan's economic growth over the past decades has given rise to a massive spread in the use of the Internet and mobile phones, popular communication channels among children and teenagers, in which supervision from parents can be minimal. Statistics from the Police Department from 1997 to September 2001 showed that an increasing number of children are engaging in prostitution through the Internet.¹ In Taiwan, *'enjo kosai'* - a Japanese term for compensated 'companionship' through dating websites, which generally involves the provision of sex for remuneration - has been practised by both girls and boys, who become victims out of curiosity or to gain quick income.²

Trying to understand enjo kosai

Research conducted in 2001 indicated that around 5 per cent of high school students in Taipei considered *'enjo kosai'* as a possible "summer job".³ Further research carried out the same year showed that one-third of high school students go to Internet cafés weekly, where around 64 per cent played online games, 56 per cent chatted, nearly 8 per cent visited pornographic websites, and nearly 5 per cent engaged in *'enjo kosai'*.⁴ Statistics show that many girls who use *'enjo kosai'* include runaways, school dropouts, night school students, and cram⁵ school students, but at the same time some have parents with well paying jobs and obtain good grades at school. This latter group of *'enjo kosai'* girls use computers at home to negotiate transactions [over the Internet]. *'Enjo kosai'* is by no means limited to teenage girls; there is also an increasing number of teenage boys caught up in this form of exploitation.⁶

Teenagers who drop out of school often find employment in sex-related industries: tea shops, pubs, night clubs, call centres, *'enjo kosai'*, illegal brothels, etc. Most of them are engaged in the sex industry in a 'disguised' manner, working as "spicy waitresses", attendants, "betel nut beauties", karaoke girls, and so on.⁷

Promoting perceptions that can have a detrimental impact on children

A number of academics regard *'enjo kosai'* as a channel through which women can challenge "social decorum by entering a public space ... and negotiating their own social intercourse, maybe even sexual intercourse".⁸ It has even been argued that girls under the age of 18 should be free to use their bodies to earn income, and that the Internet provides a good vehicle for that as they can conduct such sexual transactions by themselves without being exploited by 'intermediates'. Promoting freedom of sexual information over the Internet, including 'sexual speech' that affirms sex work,⁹ some have called for amendments to existing laws for the regulation of sexual images and sexual contact through the Internet.¹⁰ This has been supported by a number of human rights groups and individuals, including young people. In 2004, 13 Taiwanese NGOs and religious groups lost a High Court case that charged one of the academics of 'propagating obscenities that corrupt traditional values and may produce a bad influence on children and juveniles',¹¹ which according to them was done through an academic research website. The Court verdict was based on the right to freedom of speech and freedom of information, disregarding the fact that *'enjo kosai'*, when practised by children, ignores their right to protection from sexual exploitation.

Taiwan is a destination country for trafficking in women and children for sexual purposes; mainly from Cambodia, China, Indonesia, Thailand, and Vietnam, lured to Taiwan through false promises of lucrative employment or fraudulent marriages (smaller numbers come from Malaysia and Myanmar). While some may be aware that they will engage in prostitution when arriving in Taiwan, they are not prepared for the abusive working and living conditions awaiting them.¹² It is reported that most of these girls and women are trafficked to the country by 'snake' groups (a type of criminal gang).¹³ In 2003, around 100 teenage girls, mostly from China, were housed in a Taiwanese repatriation centre; this number rose to 150 girls in 2004.¹⁴ At the same time, authorities and key stakeholders in the country claim that the numbers of trafficking victims have actually decreased in recent years.¹⁵ Taiwan has boosted efforts to prosecute individuals involved in trafficking rings, especially through fraudulent marriages, and to expedite the repatriation process of foreign victims. However, the repatriation of Chinese trafficking victims is usually lengthy¹⁶ due to the inadequate systems currently in place in China and the unpredictability of sustained political support from the mainland.

As one of the economic powerhouses of the region, Taiwan is an emerging child sex tourist sending country, and Taiwanese tourists have been involved in some of the child sex tourism that occurs in East Asia, particularly in Southeast Asia (an example is Cambodia, where the Taiwanese constitute the second highest tourist group in the country).¹⁷ With

the steady expansion of Taiwanese businesses in the region in a large variety of sectors, there is also the risk that the sexual exploitation of children may be perpetrated not only by Taiwanese tourists but also by Taiwanese citizens residing abroad.

Taiwan's current unique political status poses a challenge for the country to engage in official international cooperation, and as such Taiwan has not adopted the *Stockholm Declaration and Agenda for Action*. Despite not being a member of the United Nations, Taiwan has participated in international conferences such as the Stockholm and Yokohama Congresses against the commercial sexual exploitation of children (CSEC) and is thus in a position to integrate the recommendations formally into official national policy.¹⁸

NATIONAL PLAN OF ACTION (NPA)

The *National Plan of Action to Prevent Sexual Exploitation of Children in Taiwan*,¹⁹ was completed in 2000, as a joint effort by Taiwanese NGOs, child welfare, health and law enforcement officials, and various government departments. The Plan's development was led by ECPAT Taiwan, by appointment of the Ministry of the Interior. The NPA is divided into five sections covering prevention, protection, recovery and reintegration, child participation, and regional and international cooperation.²⁰ Although the Government of Taiwan stated that the NPA will be used to guide programming on combating and preventing sexual exploitation of children, the Plan has not actually been adopted as official national policy.²¹ Government officials maintain that the *Law to Suppress Sexual Transactions with Children and Juveniles* - frequently updated but still presenting legal loopholes - contains enough provisions to tackle CSEC. Failure to see the need for a more comprehensive strategy may severely compromise the effectiveness of programmes to eliminate the sexual abuse and exploitation of children.

In addition, government authorities and non-governmental organizations (NGOs) have developed a plan of action to address human trafficking, including trafficking in women and children for sexual purposes.²² The plan is currently being examined by the 'Executive Yuan' (the highest administrative body of the State).

In 2004, the Government approved the *Youth Policy White Paper*, which addresses CSEC in terms of prevention and protection. As a result, a number of youth service institutions have been established to provide counselling, shelter and education to youth who have been commercially sexually exploited, and to those at risk.

COORDINATION AND COOPERATION

Local and National Level

Cooperation on CSEC issues has been actively undertaken by Taiwanese civil society, and there are good examples of collaboration between NGOs and the Child Welfare Bureau of the Ministry of the Interior in particular. However, collaboration with the Tourism Bureau could be enhanced through joint projects and improved information exchange. The Child Alliance, formed by NGOs including ECPAT Taiwan, the Taipei Women Rescue Foundation, Hua-lien Good Shepherd Centre and Garden of Hope, seeks to monitor implementation of the *Law to Suppress Sexual Transactions Involving Children and Juveniles*.²³ It conducts yearly assessments and holds conferences to which relevant government officials, legislators and law enforcers are invited to discuss how to close the gaps identified in current legislation. Furthermore, an evaluation committee (comprising representatives from the Departments of the Interior, Justice Administration, National Defence, Economics, Public Transport, Education, Health, Information, Labour Affairs, and NGOs) has been set up to 'guide the implementation of the Law and integrate the actions taken at each administrative level'. The committee meets every six months and regularly releases monitoring reports.²⁴

Local NGOs usually work in close cooperation with law enforcement agencies. For example, ECPAT Taiwan collaborates with the Criminal Investigation Bureau (CIB) to organise raids on production and distribution outlets that sell child pornography in the form of videos and CDs.²⁵

Regional and International Level

Taiwan's political status in relation to mainland China severely limits the extent to which regional and international cooperation can be undertaken to tackle the commercial sexual exploitation of children. NGOs have nevertheless initiated cooperation with other relevant countries regarding trafficking in children, particularly with a view to improving the process of repatriating trafficked children.

PREVENTION

A recent regulation obliging teachers to report to a social worker whenever a student fails to attend school for three days has proved a highly effective measure to detect sexually exploited children in the early stages of their exploitation. The social worker is mandated to investigate the reasons and take protective measures accordingly, requesting the involvement of the police if necessary. Also successful have been a number of governmental and NGO interventions with aboriginal tribes: a few years ago around 20 per cent of prostituted children were mainly from the poorest aboriginal areas²⁶. A number of prevention projects targeting this particular population have apparently decreased their representation substantially.

CSEC prevention efforts have also focused strongly on the online sexual exploitation of children. The *Internet Content Rating Regulation* was enacted in 2004, based on Article 27 of the *Children and Juvenile Welfare Act*, which prohibits the dissemination of inappropriate information via the Internet.²⁷ The Regulation classifies Internet content under two ratings: 1) restricted: inaccessible to anyone under 18; 2) non-restricted: accessible to anyone. It also obliges content providers to post a label showing the rating applied to the content of their websites.²⁸ Internet service providers (ISPs) who are notified (by governmental agencies or other commissioned bodies) of content on their network that contravenes the Regulation, must either restrict access to children and adolescents or remove such offending content.²⁹ To monitor its enforcement better, in 2005 the Taiwan Internet Content Rating Foundation (TICRF) was established as a non-profit group³⁰ comprising ISPs, child protection organisations, government agencies and research institutions.

In 1999, joint efforts by the Child Welfare Bureau, the information technology (IT) industry and ECPAT Taiwan led to the creation of Web 547, an online reporting channel and database on illegal and harmful materials found on the Internet. The reporting database can be accessed by 25 national police stations, and the police cooperate with ISPs to close down harmful and illegal websites and track criminals.³¹

The IT industry assuming responsibility to counter CSEC

In November 2004, ten major Taiwanese Internet service providers and Internet content providers (ICPs) signed an agreement for *Self-Regulative Child Protection* aimed to protect children from harmful and illegal content transmitted via the Internet. They agreed to undertake four key measures: 1) set up a child protection work team within their companies; 2) establish a special child and youth protection section on their homepages; 3) abide by the 'Notice and Take Down' principle, i.e. to monitor the incidence of harmful and illegal websites actively and block access to them; and 4) adopt Web 547 as their reporting channel.³²

In an effort to curb the alarming increase of online sexual exploitation of children in the country, ECPAT Taiwan is currently promoting an age identification system whereby certain websites (e.g. sex chatrooms, dating websites, sex toy marketing websites) can only be accessed with a user card stating the age of the card holder; access to such websites would thus be denied to minors.

Since 2005, ECPAT Taiwan has also undertaken awareness raising on child safety on the Internet, and produced and distributed an animation CD-ROM to 2,600 elementary schools (the CD-ROM can be downloaded from www.web547.org.tw).³³

The Tourism Bureau, in collaboration with ECPAT Taiwan, published a brochure for tourists and disseminated it in local hotels. The brochure contains information on how to be a responsible tourist and traveller, what legislation is in effect against child sex tourism at national and extraterritorial level, and the existing monitoring and reporting system at various levels.

In terms of research into CSEC, a study entitled *The Transition of Children and Juveniles Sexual Transactions: Patterns and Related Social Policies*, conducted in 2003, indicated that lack of family support and economic hardships are the key factors driving youngsters (mostly girls) into commercial sexual exploitation. As a follow up, ECPAT Taiwan founded the 'Act-together' project to assist victimised girls to live independently and continue their education or careers.³⁴

Trying to change youth's views on 'enjo kosai'

The NGO Good Shepherd Sisters Social Welfare Centre conducted a campaign to raise awareness on the dangers and consequences of becoming involved in prostitution. The video *Priceless Young Years*, about a young girl who became involved in prostitution through the Internet, was produced, distributed and promoted widely through schools, television and radio stations and major national newspapers. The media as well as the Ministry of the Interior and the Social Welfare Department, actively supported the campaign.³⁵

PROTECTION

Due to its political status, Taiwan cannot ratify international instruments such as the *Convention on the Rights of the Child (CRC)* and its Optional Protocols, nor can it adopt international documents such as the *Stockholm Declaration and Agenda for Action*. Despite this, Taiwan has declared its adherence to the CRC principles, which are reflected in the *Children and Juvenile Welfare Act* of 2003 (e.g. the principle that the best interests of the child shall be a primary consideration is embodied in Article 5).

Legislation

Taiwan's main law against the commercial sexual exploitation of children, the *Law to Suppress Sexual Transactions with Children and Juveniles*, was originally enacted in 1995 and has been frequently updated, most recently in 2006. This law covers sexual transactions with children, child pornography and trafficking in children for sexual purposes. It also addresses assistance to and rehabilitation of child victims of commercial sexual exploitation. Furthermore, Taiwan's *Criminal Code* contains several provisions related to prostitution and human trafficking.

Prostitution of Children

Although Taiwan technically cannot adopt international legal instruments, the standards set forth in international conventions such as the CRC and its Optional Protocols provide a good basis for evaluating a country's laws to protect children from commercial sexual exploitation. In some areas, Taiwanese law offers less protection for children between the ages of 16 and 18. One example of this is in Article 22 of the *Law to Suppress Sexual Transactions Involving Children and Juveniles*, which provides a lesser penalty for crimes involving children between 16 and 18 years of age, and greater penalties for crimes involving children under 16 years of age. Given the CRC's definition of a child as all persons under 18 years of age, the punishment for crimes against children should be consistent, regardless of the age of the child. In addition, the overlapping nature of many of the laws on prostitution of children may cause confusion in applying the laws to specific cases. If these many similar and related laws could be streamlined and harmonised, this would probably promote more effective prosecution of the offences covered.

Taiwanese law criminalises sexual transactions with children together with facilitating and coercing such transactions. Violators of this law who profit from, receive or hide victims, or are habitual offenders fall within the scope of this law and provisions of the *Criminal Code*. A sexual transaction is defined as sexual intercourse or indecent acts committed with consideration.³⁶ Sexual transactions with children under 16 years of age may be punished with up to three years' imprisonment and/or a fine of up to New Taiwan Dollar (NT)\$100,000 (approx. US\$3,009). Sexual transactions with a person between 16 and 18 years of age may be punished with a fine of up to NT\$100,000.³⁷

Facilitating sexual transactions with a child under 18 years of age may be punished with one to seven years' imprisonment and/or a fine of up to NT\$1,000,000 (US\$30,090). A mediator of this crime is considered to have committed the crime, and attempt of this crime is also subject to punishment. A person who receives or hides victims of this crime may be punished with one to seven years' imprisonment and/or a fine of up to NT\$300,000 (US\$9,028). Those who intend to profit from this crime may be punished with three to ten years' imprisonment and a fine of up to NT\$5,000,000 (US\$150,451). Habitual offenders may be punished with at least five years' imprisonment and fined up to NT\$10,000,000 (US\$300,903).³⁸

The *Law to Suppress Sexual Transactions with Children and Juveniles* contains several provisions that apply more broadly. For instance, publishing or broadcasting advertisements to facilitate others becoming involved in sexual transactions is a crime subject to one to seven years' imprisonment and/or a fine of up to NT\$1,000,000³⁹ (US\$30,090). Publishers who print such advertisements may be sanctioned by the information authority and fined between NT\$30,000 and NT\$400,000 (US\$903 and US\$12,036, respectively).⁴⁰

Those who coerce a person under 18 years of age to engage in sexual transactions may be punished with at least five years' imprisonment and/or fined up to NT\$2,000,000 (US\$60,181). A mediator of this crime is considered to have committed the crime, and attempt of this crime is also subject to punishment. A person who receives or hides victims of this crime may be punished with at least five years' imprisonment and/or a fine of up to NT\$500,000 (US\$15,045). Those who intend to profit from this crime may be punished with at least seven years' imprisonment and a fine of up to NT\$7,000,000 (US\$210,632). Habitual offenders may be punished with life imprisonment and fined up to NT\$10,000,000 (US\$300,903).⁴¹ Perpetrators of this crime who cause serious injury to the victim may be punished with imprisonment and those who intentionally or otherwise cause the death of the victim may be subject to capital punishment.⁴²

The *Criminal Code* makes illegal a variety of activities related to sexual transactions, and provides additional penalties for “add-on” violations. For example, it prohibits attempts to profit from or attempts to induce females to perform “obscene” or sexual acts,⁴³ and further prohibits transporting a victim of such crimes outside Taiwan.⁴⁴ Similarly, it prohibits profiting from, seducing or facilitating other persons to perform “obscene” or sexual acts with others, and also penalises habitual violators of this law, and government employees who harbour violators of the law.⁴⁵ The Code further punishes those who attempt to profit from seducing or facilitating others to perform “obscene” or sexual acts by coercion, including those who attempt or mediate this crime; receive or hide victims of this crime; habitually commit this crime; and government employees who harbour violators of this crime.⁴⁶

Other prohibited acts include: seducing and facilitating children under 16 years of age to perform “obscene” or sexual acts, or profiting from doing so;⁴⁷ attempting to profit or attempting to “co-seducer”⁴⁸ or seduce⁴⁹ a person under 20 years of age to leave their families or legal guardians for the purposes of performing obscene or sexual acts, transporting the victims of these crimes outside Taiwan,⁵⁰ or receiving and hiding the victims of this crime.⁵¹

Trafficking in Children for Sexual Purposes

While Taiwanese law literally states that it is a crime to traffic a person under 18 years of age for the purpose of a sexual transaction, the law does not provide a definition of trafficking and what specific acts this includes. Elaborating the specific activities that constitute trafficking may make it easier to apply and enforce Taiwan’s trafficking laws. In addition, similar to the many prostitution-related laws, there are many trafficking laws that overlap with one another. Streamlining and harmonising these laws will probably allow for more effective application and enforcement of Taiwan’s trafficking laws.

A person who intends to profit by involving a child under 18 years of age in a sexual transaction through trafficking may be punished with at least five years’ imprisonment and a fine of up to NT\$7,000,000 (US\$210,632). A mediator of the crime of trafficking who involves a person under 18 years of age in a sexual transaction is considered to have committed the crime and may be punished with at least five years’ imprisonment and a fine of up to NT\$5,000,000 (US\$150,452). Those who coerce persons under 18 years of age to be involved in a sexual transaction by trafficking may be punished with at least seven years’ imprisonment and fined up to NT\$10,000,000 (US\$300,903). Habitual offenders may be

punished with at least ten years' to life imprisonment, and a fine of up to NT\$20,000,000 (US\$601,806).⁵² Perpetrators of this crime who cause serious injury to the victim may be imprisoned and those who intentionally or otherwise cause the death of the victim may be subject to capital punishment.⁵³

Similar to the law on sexual transactions with children, this law also punishes accessories to the crime: those who hide and receive victims may be punished “as the specified crimes”; those who attempt the crime may be punished; and those who prepare to commit the crime may be punished with one to seven years' imprisonment.⁵⁴

The Taiwanese *Criminal Code* contains several provisions on slavery and human trafficking. The crime of enslaving others may be punished with one to seven years' imprisonment, and the attempt to do so is also punishable.⁵⁵ Trafficking in human beings may be punished with at least five years' imprisonment and/or a fine of up to NT\$500,000 (US\$15,046); any person who traffics a person for sexual or obscene acts may be punished with at least seven years' imprisonment and/or a fine of up to NT\$500,000 (US\$15,046).⁵⁶ Punishment is increased by one-half for violators who rape, threaten, or use other methods to coerce a person to be trafficked. The *Criminal Code* further punishes those who commit acts in furtherance of this crime: attempt to commit the crime is punishable; persons who mediate or receive or hide victims may be punished with one to seven years' imprisonment and/or a fine of up to NT\$300,000 (US\$9,027); and habitual offenders may be punished with ten years' to life imprisonment and/or fined up to NT\$700,000 (US\$21,064). A Government employee who harbours a violator of this law may be subjected to the same punishment as the violator, increased by one-half.⁵⁷

As previously mentioned, a person who attempts to profit from or to “co-seduce”⁵⁸ or seduce⁵⁹ a person under 20 years of age to leave their families or legal guardians for the purposes of performing obscene or sexual acts and who are transported outside Taiwan may be punished with seven years' to life imprisonment.⁶⁰

There are a number of provisions in other laws that relate to trafficking that could be used to prosecute traffickers. Some examples of these laws are the *National Security Act*; the *Act on the People's Relationship between Taiwan and Mainland Area*; the *Anti-Hooligan Law*; the *Organized Crime Prevention Act*; and the *Immigration Act*.

Child Pornography

With respect to international standards, Taiwanese laws on child pornography are not as extensive. The Taiwanese law discussed below is limited to visual representations of sexual acts involving a child, while the *Optional Protocol* includes audio and digital materials (referred to as “electronic signals” in Taiwanese law) and the depiction of parts of a child. In addition, Taiwanese law does not appear to prohibit simulated images. Finally, the *Stockholm Agenda for Action* recommends that States criminalise the mere possession of child pornography. In contrast, Taiwanese law only prohibits the manufacture and distribution of images of children involved in sexual transactions.

Taiwanese law prohibits the manufacture and distribution of child pornography. It is illegal to manufacture materials that show the “conducts of indecency or sexual interaction” involving a person under 18 years of age. Manufactured materials include paintings, videotapes, film pictures, CD-ROMs, ‘electronic signals’ or other products. Violations of this law may be punished with six months’ to five years’ imprisonment, and/or a fine of up to NT\$500,000 (US\$15,045).⁶¹

Attempts of this crime are punishable, and related activities intending to profit from this crime may be punished with one to seven years’ imprisonment and a fine of up to NT\$5,000,000 (US\$150,451); facilitating the involvement of a person under 18 years of age in committing this crime may be punished with one to seven years’ imprisonment and/or a fine of up to NT\$1,000,000 (US\$30,090); using coercion to commit this crime may be punished with at least five years’ imprisonment and/or a fine of up to NT\$3,000,000 (US\$90,271); and habitual offenders of this law may be punished with at least seven years’ imprisonment and fined up to NT\$10,000,000 (US\$300,903).⁶²

Distributing materials - paintings, videotapes, film pictures, CD ROMs, electrical signals or other products - that show “conducts of indecency or sexual interaction” involving a person under 18 years of age may be punished with up to three years’ imprisonment and/or a fine of up to NT\$5,000,000 (US\$150,451).⁶³

Extraterritorial Legislation

Taiwan’s main law related to the commercial sexual exploitation of children allows, in some cases, for Taiwanese citizens who violate the law outside Taiwan to be punished. For example,

paying for sex with a child under 18 years of age in another country would subject a Taiwanese citizen to face prosecution in Taiwan.⁶⁴

Child Protection Units

Women and Child Protection Units have been established in every county in Taiwan. Under the *Law to Suppress Sexual Transactions Involving Children and Juveniles*, the Government must also establish specialised duty squads to detect sexual crimes against children,⁶⁵ and set up or authorise others to set up national rescue hotlines.⁶⁶ To date, these specialised duty squads have not been officially established; instead, each county now has a local prosecution bureau where a prosecutor is appointed to deal with CSEC cases.

The 9th Investigation Brigade of the Criminal Investigation Bureau specialises in cybercrime cases, and works closely with ECPAT Taiwan through Web 547, which monitors child pornography on the Internet. An important partnership has been established with the International Association of Internet Hotlines (INHOPE) to enhance international collaboration in dealing with child pornography reports⁶⁷

Following the rescue of children at risk of being involved or already involved in sexual transactions, social workers should be appointed to accompany the children while they identify criminal suspects,⁶⁸ provide interviews to law enforcement,⁶⁹ and testify in criminal proceedings.⁷⁰ Additionally, law enforcers, judges, or specialised duty squads must refer a rescued child to an emergency settlement centre, and provide the necessary protection, settlement or other assistance to the child.⁷¹

Support Services for Children

According to the current legislation, children who are detected as being involved in commercial sexual transactions are immediately sent to shelters. The social worker then has to submit a report on the case to the Court within three days, after which, the Court, regardless of whether a commercial sexual transaction has occurred or not, gives a ruling on whether the child should be returned to his/her parent(s) or legal guardian(s) or placed in a short-term shelter or other specialised facility. However, a law reform project currently being examined by the Child Welfare

Bureau proposes that only those children whose families have proved unable to care for them properly should be referred to shelters, and that other appropriate assistance measures be employed when this is not the case. An issue that demands urgent attention is the fact that Chinese child victims of trafficking are sent to detention centres while the lengthy repatriation process to China is arranged. The National Plan of Action on Trafficking in Human Beings presently being considered by the Ministry of the Interior provides that these children be sent to shelters instead, thus entitling all children to equal assistance and treatment, regardless of the existing political environment.

The *Law to Suppress Sexual Transactions with Children and Juveniles* provides that professionals involved in child and juvenile welfare, such as doctors, nurses, social workers, and educators, must report incidents of children under 18 years of age involved in or at risk of being involved in any of the sexual crimes outlined in the law to local authorities or specialised duty squads.⁷² Placement in emergency settlement centres, or in short-term shelters, and other protective measures are then to be undertaken accordingly.⁷³ The law provides guidelines to ensure that Courts quickly determine whether the child should be returned to his/her parent(s) or legal guardian(s) or placed in a short-term placement centre or


other specialised facility.⁷⁴ It also provides for the establishment of specialised mid-way schools for the continuing education of children and juveniles formerly involved in commercial sexual transactions.⁷⁵

A person over 18 years of age who has been forced by coercive measures or trafficked for sexual transactions may also request assistance under the settlement and protection measures outlined in the law.⁷⁶

The Government's crisis hotline (113) which deals with violations involving the sexual exploitation of children provides an aid to reporting.

Training Law Enforcement Personnel

In 2004, a training workshop "Advanced Course for Tracing Online Child Pornography" was attended by NGOs and governmental agencies such as the National Police Agency, the Child Welfare Bureau, the Ministry of Justice and the Ministry of Education.⁷⁷ Participants successfully identified the main challenges in combating child pornography: 1) lack of legislation to criminalise possession of child pornography; 2) the widespread practice of moving Internet Protocols (IPs), which allow criminals to change their IP number and thus make their computer untraceable; 3) the need to enhance international collaboration between law enforcement, industries and hotlines to process child pornography reports effectively; and 4) insufficient human resources.



**PRIORITY
ACTIONS
REQUIRED**

- Taiwanese laws on child pornography must be amended to include audio and digital material, the depiction of parts of a child and simulated images. The mere possession of child pornography must also be criminalised.
- Taiwanese law on child trafficking must be reviewed with the aim of elaborating specific activities that constitute trafficking, based on the definitions contained in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)*.
- Streamlining and harmonising Taiwanese law on prostitution of children and trafficking should result in more effective application and enforcement.
- The legal definition of a ‘child’ needs to be brought in line with that of the *Convention on the Rights of the Child* so that all children under 18 years old are equally protected under Taiwanese law on prostitution of children.
- The Government must adopt the *National Plan of Action to Prevent Sexual Exploitation of Children in Taiwan* as the official national policy document to guide action against CSEC. The NPA must also be reviewed to specify the period for implementing the proposed activities, the focal and implementing agencies, and indicators of achievement.

- ✎ The National Plan of Action on Trafficking in Human Beings must be urgently approved, especially as it provides that Chinese children are referred to shelters instead of detention centres, as is currently the case.
- ✎ In conformity with the *Convention on the Rights of the Child*, all children must be afforded appropriate protection. Taiwan's involvement in all regional and international efforts to end cross-border trafficking in children for sexual purposes, and sexual crimes against children in general should be facilitated, regardless of Taiwan's political situation.
- ✎ The Government and Taiwanese ISPs must support and adhere to the control mechanism proposed by ECPAT Taiwan where certain harmful and illegal websites would only be accessible through an age identification card.
- ✎ The Tourism Bureau must actively engage with relevant stakeholders - both within the private and the non-profit sector - to combat child sex tourism more strategically through effective collaboration in adopting, implementing and monitoring the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.
- ✎ The specialised duty squads to detect sexual crimes against children must be formally established and should operate in compliance with the provisions in the *Law to Suppress Sexual Transactions Involving Children and Juveniles*.
- ✎ Child protection should take priority over issues around freedom of speech. There is a need to ensure that judges and legislators are made more aware and foster greater understanding on how the Internet in particular can be used to exploit children sexually.
- ✎ The law reform project currently being examined by the Child Welfare Bureau, proposing that only those children whose families have proved unable to care for them properly be referred to shelters, should be approved.

Endnotes

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NOTES

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