

## Child Pornography and Sexual Exploitation of Children Online

### Concept Note

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Child pornography is not a new form of child exploitation and it has long been implicated in other sexually abusive practices towards children. However, with each technological advance there has also been a further democratisation of the availability of images and text that objectify and sexualise children. Since the second World Congress it is apparent that these problems not only persist but pose new and increasingly complex challenges and create a need to set more targeted strategies and measures to address them and to build on the achievements to date. Article 34 of the UN Convention on the Rights of the Child, ratified in 1990, states that parties should undertake to protect the child from all forms of sexual exploitation and sexual abuse and take all appropriate national, bilateral and multilateral measures to prevent the exploitative use of children in pornographic performances and materials. The UN's Optional Protocol to the Convention (2002) defined child pornography as 'any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes'. This document, along with the Council of Europe's Cybercrime Convention (2001) and the European Union's Framework Decision in combating the sexual exploitation of children and child pornography (2004) all define a child as under the age of 18 and include both real depictions as well as simulated material within their definition. The focus is still on obscenity and indecency and requires explicit sexual behaviour or the depiction of the genitals of the child. This poses problems in terms of how we make sense of, and possibly legislate against, the plethora of sexualized material of children available on the Internet and through other media. The proliferation of laws does not appear to have solved the problem but 'only presided over its escalation' (Adler, 2001). Yet it is apparent that change is possible and since the first World Congress we have seen the impact on the exploitation of some of the world's children of changes in both legislation and practice within different regions.

It is also apparent that while there has been an increase in legislation, this has not been harmonized across all states. A study by ICMEC (2006) demonstrated that of the 184 member countries of Interpol, 95 countries have no legislation at all that specifically addresses child pornography, and of those that do, 41 countries do not criminalise possession of child pornography, regardless of intent to distribute. A further tension relates to the increased use of the term 'abusive images' to describe the reality of the content of the material, but this is not reflected in the majority of the laws and international policy documents currently in use (Akdeniz, 2008). As such, there seems to be a widening gap between those who are concerned with the availability of sexualized depictions of children, and those who feel that such depictions may be problematic, but cannot be legislated against. This demonstrates the need to further identify channels to facilitate better exchange of experiences and secure greater international cooperation on key issues (including cross-border, but also inter-regional cooperation).

The first paper to provide a systematic review of child pornography was published by the NSPCC (Renold and Creighton, 2003) and indicated that very few children appeared to be exploited through child pornography, but in fact this is an under researched area where children are rarely asked whether a camera was used as part of any sexual abuse. It is also apparent that while police records routinely cite the number of images seized in the

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conviction of the offender, they do not indicate the number of children abused or provide an adequate understanding of how child pornography is part of a cycle of sexual exploitation. Since the last Congress (2001) the number of books and papers that relate to online offences against children has continued to grow, but invariably the focus is on the characteristics of the offender, and largely ignores the children within the images. There have been many fewer publications that have focused on the children photographed (e.g. Svedin and Back, 2003), and there is little to inform practitioners about the nature of harm to children associated with image production and distribution. Even within the necessary context of an offender focus, attempts to understand the nature of the offence largely exclude an analysis of the photographic content (e.g. Sheldon and Howitt, 2007) and inadvertently relegates these children to the status of 'only images'. The largely exclusive emphasis on offender related issues might best be addressed by a more systemic and inter-sector approach in order to guarantee children and adolescents' right to be protected from sexual exploitation.

In 2005 ECPAT produced "Violence Against Children in Cyberspace" which was a contribution to the UN Study on Violence Against Children. For the first time there was documented evidence that all children were potentially vulnerable to harm through the new technologies, not only those who had access. The publication detailed studies of children from Mexico, Nepal, the Czech Republic, the Philippines, India and Moldova, all of whom had been implicated in a range of sexually abusive activities which included the production of child pornography. What is apparent from these studies is that we still have little idea as to what factors leave these children vulnerable, what resources are available to them and what happens to the images that are produced. Such research highlights discrepancies between children who are sexually exploited through image production and those who are identified within the images. At present there is little consistent empirical data about the children who are identified, although the National Center for Missing and Exploited Children suggest that as of May 2008, 1342 children have been identified through distributed and non-distributed images (71% female and 29% male). However, while anecdotal evidence from people working with current law enforcement data bases would suggest that the majority of new images are of white, westernized and Asian children, there has been no systematic analysis and collation of data. While since 2001 we have seen dramatic changes in access to the new technologies across the world, we have no empirical baseline data to know if there will be a corresponding increase in child pornography production and distribution. The paucity of demographic data, the lack of conceptual understanding of the harms inflicted through photography and the factors that promote both vulnerability and resilience are issues that urgently need addressing through regional as well as international co-operation.

However, the production, distribution and use of materials depicting child sexual abuse is not the only form of harm posed, and different facets of the new technologies are often used when grooming and abusing children, such as chatrooms, mobile phones and webcams. Changing legislation across Europe is attempting to control online solicitation, or grooming behaviour, but there is a growth of activities that are highly abusive (such as the commission of a 'virtual' contact offence), for which there is currently no specific legislation. What has also been evidenced are concerns about the increasing exposure of young people to materials that might cause harm or detriment to a child (e.g. Wolak et al., 2005) as well as exposure to a medium that can facilitate harmful behaviour. This may include the opportunity to create harmful or illegal content, particularly through webcams and camera phones, as well as affording opportunity for young people to engage in sexually problematic behaviour towards other children (Quayle, 2007). Current legislation, while seeking to protect children, positions them as having autonomy and paradoxically blames them when, as with the new technologies, this results in harmful and illegal behaviour (Piper, 2007).

At present we have very little information about what happens to children therapeutically when they have been identified as being subjected to abuse through the new technologies, and what information we have is country specific, e.g., Germany (von Weiler, 2008) and Sweden (BUP Elefantén, 2008). The same is also true with children who are identified as engaging in abusive behaviour against other children (Moultrie, 2007). Psycho-social approaches to treatment and recovery of children who are both victims and victimised

tend to be dominated by approaches that may be thought of as ‘culture-bound’, disregarding the importance of differing developmental needs and systemic contexts. There is a need to further this research to establish ‘best practice’ with regard to victim identification and its consequences for the child and non-offending family. There is also an urgent need to utilise inter-agency intelligence to improve detection, within the context of a world wide strategic approach. In addition we need to build on the considerable advances from IT industry to further a more discriminative approach to online protection of children. This thematic paper will explore these key issues, examine how they might best be tackled and look critically at specific targets with indicators for consideration by governments and other stakeholders that could be reached in the five years before the next Congress and for the more immediate interim years.