



ALTERNATIVE REPORT

**FOLLOWING THE INITIAL REPORT FROM CAMBODIA ON THE
IMPLEMENTATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION
ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD
PROSTITUTION AND CHILD PORNOGRAPHY**

PRODUCED BY

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The alternative report was prepared by:



ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) is the leading global network working to end the commercial sexual exploitation of children (child prostitution, child pornography, child trafficking and child sex tourism). It represents 81 member organisations from 75 countries. ECPAT International holds Consultative status with ECOSOC.

Website: www.ecpat.net

In collaboration with:



ECPAT Cambodia End Child Prostitution, Abuse and Trafficking in Cambodia (ECPAT Cambodia) is a NGO network established in 1995. ECPAT Cambodia is a network of national and international organizations working to prevent the Commercial Sexual Exploitation of Children. It consists of 27 member organizations working together to ensure that children everywhere in the country enjoy their fundamental rights, and are free and secure from all kinds of sexual abuse and exploitation. ECPAT Cambodia is the national member organization of ECPAT International in Cambodia.

Website: <http://www.ecpatcambodia.org>



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1. General measures of implementation

Cambodia ratified the *Convention on the Rights of the Child* 1989 (CRC) in 1992, the *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography* 2000 (OPSC) in 2005, the *ILO Convention on the Worst Forms of Child Labour* (No. 182, 1999) in 2006 and the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* 2000 (Trafficking Protocol) in 2007.

Cambodia has not yet signed nor ratified the *Optional Protocol on a Communications Procedure* 2011 (OP3 CRC).

At regional level, Cambodia ratified the *ASEAN Declaration against Trafficking in Persons, Particularly in Women and Children* in 2008.

Notable progress has been made in terms of the Cambodian domestic legal framework addressing the commercial sexual exploitation of children (CSEC), especially with regards to the prohibition of child prostitution and child trafficking, with the adoption in 2008 of the *Law on Suppression of Human Trafficking and Sexual Exploitation*. However, Cambodian legislation still needs to be improved, especially in the areas of child pornography and the sexual exploitation of children through the use of information and communication technologies.

The Committee on the Rights of the Child in 2011 raised some concerns regarding the low number of prosecuted and convicted child sex offenders by Cambodian national courts, in relation to the enforcement of the *Law on Suppression of Human Trafficking and Sexual Exploitation*. The effective implementation of this particular law remains a major challenge.

There is a need for capacity building and training for law enforcement officers who handle child victims in CSEC cases, in order to effectively implement law and policy in this area. This is particularly important when investigating cases addressing child pornography and child sexual exploitation through the use of information and communication technologies, because law enforcement officers often do not have up to date training on these newer manifestations of CSEC.

The capacity of care and protection services for child victims should be strengthened in order to meet the needs of all children who have been victimised by commercial sexual exploitation. Special efforts should be made to ensure the provision of adequate services to foreign children.

2. Prohibition and related matters

2.1 Child prostitution

Cambodia's *Law on Suppression of Human Trafficking and Sexual Exploitation* 2008 provides for a comprehensive definition of child prostitution and prohibits all acts related to child prostitution, in accordance with the OPSC.

2.2 Child trafficking for sexual purposes

The *Law on Suppression of Human Trafficking and Sexual Exploitation* 2008 is generally in compliance with the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* with regard to the definition and prohibition of trafficking in human beings. However, under Article 12, the recruitment of children for the purpose of exploitation is prohibited only if it is done using means of deception, force or coercion, which is not consistent with Article 3 of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. According to this provision, the recruitment of children for the purpose of exploitation should be criminalised regardless of the means used.

Regarding the implementation of the *Law on Suppression of Human Trafficking and Sexual Exploitation* 2008, the Committee on the Rights of the Child expressed some concerns in relation to the "low number of prosecutions and convictions of traffickers"¹.

Despite documented progress, there remain significant problems in Cambodia's efforts to address trafficking in human beings, including child trafficking. Corruption and cases of law enforcement officers' involvement in CSEC contribute to the ongoing problem of CSEC in Cambodia. In fact, the 2013 US Trafficking in persons report notes that the former head of the Phnom Penh Municipal Police's Anti-Human Trafficking and Juvenile Protection Department, convicted in absentia for complicity in trafficking in 2012, was not apprehended².

Recommendations:

- **Amend Article 12 of the *Law on Suppression of Human Trafficking and Sexual Exploitation* 2008 to ensure that the recruitment of children for the purposes of sexual exploitation is prohibited regardless of the means used.**
- **Cambodian Law enforcement agencies should increase their efforts in prosecuting and convicting with appropriate sanctions all persons involved in child trafficking for sexual exploitation.**

¹ Committee on the Rights of the Child, Consideration of reports submitted by State parties under article 44 of the Convention – Concluding observations: Cambodia, 2011.

² United States Department of State, *Trafficking in Persons Report 2013 - Cambodia*, accessible at: <http://www.state.gov/documents/organization/210738.pdf>

2.3 Child pornography and the sexual exploitation of children through the use of information and communication technology

The *Law on Suppression of Human Trafficking and Sexual Exploitation* 2008 fails to provide a comprehensive definition of child pornography, especially as it does not cover images depicting sexual parts of children and does not cover written and audio materials involving child pornography.

Under the *Law on Suppression of Human Trafficking and Sexual Exploitation* 2008, mere possession of child pornography (without intention to distribute), and the intentional access to child pornography through the use of information and communication technologies, are not criminalised. Even though the criminalization of these acts is not required under the OPSC, the Committee on the Rights of the Child has encouraged countries to prohibit both of these, and such a prohibition is required under the *Rio Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents* (2008).

Furthermore, the *Law on Suppression of Human Trafficking and Sexual Exploitation* 2008 does not criminalise the solicitation of children for sexual purposes (grooming), which is particularly critical due to increased risks of sexual exploitation of children through the use of information and communication technologies in Cambodia.

Over the past few years, there have been various initiatives, mainly led by international organisations, aimed at strengthening the capacities of Cambodian law enforcement officials to investigate cases addressing CSEC. However, law enforcement officers in Cambodia lack critical skills in the area of investigating child pornography, particularly cases involving the use of information and communication technologies.

Recommendations:

- **Amend the *Law on Suppression of Human Trafficking and Sexual Exploitation* 2008 to ensure that the mere possession of child pornography is made an offense; that knowingly accessing child pornography through the use of information and communication technologies is criminalised; and that the solicitation of children for sexual purposes (grooming), especially through the use of information and communication technologies is prohibited.**
- **Law enforcement officials should be provided with specialised training on child protection, commercial sexual exploitation of children and trafficking in human beings. They also should be trained on how to use child-sensitive approaches in dealing with child victims or child witnesses.**
- **Law enforcement officers should also be provided with specific capacity building activities to adequately address child pornography cases as well as cases addressing sexual exploitation of children through the use of information and communication technologies (e.g. grooming cases)**

2.4 Child sex tourism

The 2008 Act fails to criminalise the promotion of child sex tours as well as travel arrangements made for customers for the purpose of sexually exploiting children in destination countries.

In its 2011 Concluding Observations on the report submitted by the government of Cambodia on the implementation of the Convention on the Rights of the Child³, the Committee on the Rights of the Child expressed its concerns that child sex tourism has been increasing in recent years and highlighted the fact that child sex offenders were “rarely prosecuted due notably to the widespread practice of out-of-court settlement and compensation of sexual abuse cases which is encouraged by law enforcement authorities”⁴. However, even though 39 child sex offenders were convicted and sentenced in 2013⁵, it appears that the prosecution and conviction of child sex offenders, particularly foreign child sex offenders remains insufficient. For instance, in December 2012, the government reduced the charge against a convicted Australian child sex offender and released him from prison without investigating claims that his lawyer bribed the victim’s family to change her testimony. In addition, several convicted child sex offenders were pardoned in February 2013 as part of the funeral ceremonies for Cambodia’s former King⁶.

However, the recent collaboration between Cambodian National Police with APLE and UK’s Child Exploitation and Online Protection Centre on the case of a British child sex offender who sexually abused children in Cambodia led to a court decision in the UK which convicted the suspect to 21 months in jail⁷.

Recommendations

- **Cambodia should amend its legislation to include provisions specifically prohibiting sexual exploitation of children in travel and tourism (e.g. making travel arrangements with the purpose of sexually exploiting children, printing or publishing information intended to promote child sex tours)**
- **Cambodian courts should pronounce harsher penalties against foreign child sex offenders and avoid the “release on bail” practice for alleged child sex offenders.**
- **Sexual crimes against children should never come under the category of offences that may escape prosecution by royal pardon.**

³ Committee on the Rights of the Child, Consideration of reports submitted by State parties under article 44 of the Convention – Concluding observations: Cambodia, 2011.

⁴ Ibid.

⁵ APLE, Annual Report 2013, accessible at: <http://www.aplecambodia.org/images/2013%20Annual%20Report-medium%20resol.pdf>

⁶ United States Department of State, *Trafficking in Persons Report 2013 - Cambodia*, accessible at: <http://www.state.gov/documents/organization/210738.pdf>

⁷ APLE, Annual Report 2013, accessible at: <http://www.aplecambodia.org/images/2013%20Annual%20Report-medium%20resol.pdf>



2.5 Jurisdiction and extradition

2.5.1 Jurisdiction

The *Law on Suppression of Human Trafficking and Sexual Exploitation* (2008) provides for territorial jurisdiction over CSEC related crimes committed on its territory as well as extraterritorial legislation for crimes committed by Cambodian citizens in foreign countries, which is in line with Article 4 of the OPSC. It is commendable that the *Law on Suppression of Human Trafficking and Sexual Exploitation* 2008 does not require that the alleged acts are criminalised both in the country where the offense was committed as well as in Cambodia (double criminality principle), which helps to facilitate the prosecution of child sex offenders.

2.5.2 Extradition

Under the Criminal Procedure Code, foreign residents who have been prosecuted or convicted (without serving full sentence) in another State can be extradited by Cambodian authorities. However, such process is conditioned to the fact that the prosecuted facts constitute an offense under the law of both the requesting state and Cambodia (double criminality principle). In addition, the offense committed should be punished with imprisonment for at least two years. These requirements can constitute obstacles for the prosecution of foreign child sex offenders who have escaped prosecution in other States. According to Article 33 of the Constitution of Cambodia, extradition of Khmer citizens is conditioned to the existence of bilateral extradition treaties⁸ with requesting countries.

The Cambodian Government has signed extradition bilateral treaties with the Lao PDR, Thailand, China and South Korea.⁹

3. Prevention

Although numerous efforts have been undertaken by the Cambodian government and NGOs to combat the sexual exploitation of children in travel and tourism, it appears that the problem is being pushed into rural areas and continues to exist underground. However, most of the initiatives aimed at preventing CSEC are developed by civil society organisations. Government efforts in that area are very limited.

An increasing number of NGOs in Cambodia are dealing specifically with the matter of sexual exploitation of children in travel and tourism. Campaigns have been launched, innovative

⁸ The Cambodian Government has signed extradition bilateral treaties with the Lao PDR, Thailand, China and South Korea.

⁹ Khemlin Ku, *International Cooperation. Mutual legal assistance and extradition in Cambodia*, accessible at: http://www.unafei.or.jp/english/pdf/PDF_GG6_Seminar/05-1_Cambodia.pdf

approaches developed, and previously overlooked groups are now also being targeted and involved in efforts to combat child sex tourism.¹⁰

ECPAT Cambodia, in cooperation with ECPAT International and ECPAT Netherlands, has provided several capacity-building seminars on the protection of children from sexual exploitation in travel and tourism in order to increase understanding and awareness of the *Code of Conduct to Protect Children from Sexual Exploitation in Travel and Tourism*. By signing the Code, organisations commit themselves to providing information to customers about child-sex tourism and training staff to recognise and report suspicious activity.

Since 2009 ECPAT Cambodia, the Local Code Representative, has provided training to 122 tourism companies (and 169 staff members) with the aim to encourage them to establish ethical policy to protect children from sexual exploitation in travel and tourism and report possible cases to authorities. Among various achievements, this work has led the Sofitel Phnom Penh Phodeethra to become the first hotel in the country to sign the Code in 2012.¹¹

The NGO Friends International has run a program called ChildSafe Network that started in 2005 in Cambodia to expand later to Thailand. The focus of the program is the involvement of tourism-related businesses towards building a protective environment for children, especially street children, who are generally those in the most vulnerable conditions.¹² ECPAT Cambodia launched an awareness-raising campaign through posters displayed on the rear of tuk-tuks in 2006. The initiative is still ongoing.¹³

The Cambodian government, in partnership with ILO, implemented a “child-safe tourism” campaign drawing on the inputs and experiences that have been put into practice in the country over the last few years to prevent trafficking and exploitation of children through tourism.¹⁴ The Cambodian Government has designed and implemented a *Strategic Plan (2007-2009)* on the promotion of child safe tourism in Cambodia. As a part of the plan, operational guidelines and a training manual were disseminated to 308 stakeholders, including local officials, school directors and staff of NGOs, hotels, guesthouses and restaurants. Training courses for trainers in relation to Child-Safe Tourism have taken place and have had over 100 participants. In addition a number of workshops on “Promoting Child-Safe Tourism” were held and participants included university students, civil servants and representatives from the travel and entertainment industries.¹⁵

¹⁰ The Protection Project, *International Child Sex Tourism. Scope of the Problem and comparative Case Studies*, John Hopkins University, 2007.

¹¹ The Code, ECPAT Cambodia Conducts Child Protection and Code Training for Tourism Professionals, accessible at: <http://www.thecode.org/ecpat-cambodia-conducts-child-protection-and-code-training-for-tourism-professionals/>

¹² ChildSafe International, accessible at: <http://www.childsafe-international.org/>

¹³ ECPAT Cambodia, accessible at:

<http://www.ecpatcambodia.org/index.php?menuid=2&submenuid=4&menuname=What%20We%20Do>

¹⁴ Ministry of Tourism, *Operational guidelines 2007-2009 On the Promotion of Child safe Tourism to Prevent Trafficking in Children and Women for Labour and Sexual Exploitation in the Tourism Industry in Cambodia*, accessible at: http://www.tourismcambodia.org/images/mot/child_safe_tourism/operational_guideline_en.pdf

¹⁵ COMMIT, 2nd Sub Regional Plan of Action, 2008-2010, Year 1 2008 Annual Report. Accessible at: http://www.no-trafficking.org/reports_docs/commit/annual_report_email_sized.pdf



Another aspect of the Child-Safe scheme is the involvement in Sihanoukville of moto-taxi drivers. The programme trains moto-taxi drivers to recognise dangerous situations and take the appropriate action. Since moto-taxis are the main form of public transport in many of Cambodia's towns and cities, the organisers hope they will eventually drive away sex tourists.¹⁶

Since 2005 a 24-hour hotline has been available that allows people to report suspicious cases related to child exploitation. The hotline is supported by World Vision and currently operates in 5 Cambodian provinces and the capital city of Phnom Penh. The hotline is publicised in tourist hotspots through leaflets, posters, and key chains.¹⁷

As part of the “Children are the bamboo shoots” project, Child Wise is empowering remote communities to reduce the vulnerability of children to abuse, exploitation, trafficking and unsafe migration, including by assisting families generate sustainable income and supporting vulnerable children to regularly attend school.¹⁸

Often the materials are produced by sex offenders who film or photograph the children they abuse.¹⁹ Victims also report being encouraged to watch pornographic materials with offenders as a ‘grooming’ method.

Recommendations:

- **Cambodia must conduct more in-depth research on the various forms of CSEC, especially on child pornography, sexual exploitation of children online and the prostitution of boys. More in-depth research will help to create better targeted policies and intervention programs to prevent CSEC.**
- **Cambodia should integrate CSEC education into the school curriculum and make it state policy.**
- **Cambodia should develop and implement strategies to reduce vulnerability amongst children who are likely to be victims of CSEC.**
- **Effective educative and awareness-raising campaigns are also urgently needed to curb the demand for sex with children from both locals and foreigners.**

¹⁶ Humantrafficking.org, *Taxi Drivers in Cambodia on the Look Out for Abuse*, accessible at: <http://www.humantrafficking.org/updates/437>

¹⁷ World Vision, *Cambodia: World Vision Hotline Helps Curb Child Sex Tourism*. Accessible at: http://www.worldvision.org/news.nsf/news/200710_cstp_hotline_advo?Open&wvsrc=enews&lpos=rightnav&lid=cstp_hotline200710

¹⁸ Child Wise, *Children are the Bamboo Shoots Project*. Accessible at: [http://childwise.blob.core.windows.net/assets/uploads/files/Bamboo%20Shoot%20\(Chicken%20Raising\)-1.pdf](http://childwise.blob.core.windows.net/assets/uploads/files/Bamboo%20Shoot%20(Chicken%20Raising)-1.pdf)

¹⁹ Katherine Keane, *Street-Based Child Sexual Exploitation In Phnom Penh and Sihanoukville : A Profile of Victims*, accessible at: <http://www.humantrafficking.org/publications/456> (Adapted from Action Pour Les Enfants, Cambodia).



- **Conduct educative and awareness-raising campaigns on sexual exploitation of children in travel and tourism in rural communities, where the phenomenon is growing.**
- **Cambodia must develop targeted interventions to prevent child pornography, particularly through education of children and young people on Internet safety.**
- **In line with the Rio Declaration and Call to Action, Cambodia should strengthen deterrence measures by creating and implementing an effective sex offender registration system.**