

SUMMARY PAPER ON

# SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES



ECPAT International is a global network of civil society organisations working together to end the sexual exploitation of children (SEC). ECPAT comprises member organisations in over 100 countries who generate knowledge, raise awareness, and advocate to protect children from all forms of sexual exploitation.

Key manifestations of sexual exploitation of children (SEC) include the exploitation of children in prostitution, the sale and trafficking of children for sexual purposes, online child sexual exploitation (OCSE), the sexual exploitation of children in travel and tourism (SECTT) and some forms of child, early and forced marriages (CEFM). None of these contexts or manifestations are isolated, and any discussion of one must be a discussion of SEC altogether.

Notably, these contexts and manifestations of SEC are becoming increasingly complex and interlinked as a result of drivers like greater mobility of people, evolving digital technology and rapidly expanding access to communications. Now more than ever, the lines between different manifestations of SEC are blurred and children may be victimised in multiple ways.

The ECPAT Summary Papers explore each of these five manifestations but should be considered a set addressing this complex problem. This Summary Paper focuses attention on the sale and trafficking of children for sexual purposes.

The sale and trafficking of children for sexual purposes represent some of the worst violations of children's rights. Children living in poverty, in conflict zones, migrating or in other vulnerable situations are at a particularly high risk of being victimised. Yet, vulnerability factors vary, so any child in any situation can fall victim to being trafficked or sold for sexual purposes.<sup>1</sup>

'Human trafficking' is defined by the [Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children supplementing the UN Convention against Transnational Organized Crime](#) (here within Trafficking Protocol).<sup>2</sup> Signatories to the Trafficking Protocol commit to reflect its provisions in national legislation, and many have adopted definitions along

1 ECPAT International. (2016). [Power, Impunity and Anonymity](#). 42-44.

2 The Trafficking Protocol is also commonly known as "Palermo Protocol". In this paper the title "Trafficking Protocol" will be used consistently to avoid confusion with the other two Palermo Protocols supplementing the UN Convention against Transnational Organized Crime, namely the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition.

these lines in their legislation since its adoption in 2000. Trafficking in persons is primarily understood to be comprised of three distinct elements: the ‘act’, the ‘means’ and the ‘purpose’.<sup>3</sup> The ‘act’ is defined as “the recruitment, transportation, transfer, harbouring or receipt of persons.” The ‘means’ is defined as the “threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or of the giving and receiving of payments or benefits to achieve the consent of person having control over another person, for the purpose of exploitation.”<sup>4</sup> The ‘purpose’ of exploitation is loosely defined as including, at a minimum “the exploitation of prostitution or forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”<sup>5</sup>

### **When the trafficking victim is under 18, Article 3 of the Protocol removes the need for a ‘means’ to be present to meet the definition. Thereby only the ‘act’ and a ‘purpose’ must be present to constitute the crime of child trafficking.**

Therefore, child trafficking is “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation [...] even if this does not involve any of the means” mentioned above.<sup>6</sup>

The sale of children is also defined in the [Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#) (here within OPSC). This document, in its Article 2(a), defines the sale of children as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”. The sale of children therefore requires a transaction to occur when transferring

a child from one person to another; however, it does not include the requirement of the purpose to exploit the child. When a ‘sale’ of a child is accompanied by the purpose to sexually exploit them, the concepts of ‘sale’ and ‘trafficking’ of children become almost indistinguishable.

The [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse](#) (‘Luxembourg Guidelines’) provide a useful summary of the legal debate, pointing to the former Special Rapporteur on the sale of children, child prostitution, and child pornography, Ofelia Calcetas-Santos’ comments that “in most cases, elements of both are involved, but there is no line where one ends and the other begins. For this reason, [...] the issues of sale and trafficking will not be treated as distinct and separate categories.”<sup>7</sup> That being said, the legal distinction described above plays an important role in the assessment of the offence and prosecution of offenders, requiring national legal frameworks explicitly criminalising both ‘sale’ and ‘trafficking’ of children.<sup>8</sup> This is particularly relevant considering the risk of using anti-trafficking laws in situations that amount to the sale of children, as the lack of the purpose of exploitation, considered a constitutive element of the offence of trafficking, might weaken the protection afforded to child victims.<sup>9</sup>

### **Definitional overlap between ‘sale’ and ‘trafficking’ of children for sexual purposes has little impact on individual victims but distinguishing the two terms in law is necessary to facilitate the prosecution of perpetrators.**

The UN Office of Drugs and Crime (UNODC) monitors implementation of the Trafficking Protocol and produces a Global Report on Trafficking in Persons every two years.<sup>10</sup> Besides the UNODC, the US Department of State publishes the annual

3 UN General Assembly. (2000, November 15). [Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children supplementing the UN Convention against Transnational Organized Crime](#). Article 3 (a).

4 *Ibid.*, Article 3 (a).

5 *Ibid.*, Article 3 (a).

6 *Ibid.*, Article 2 (c).

7 UN Special Rapporteur on the sale of children, child prostitution and child pornography. (1999). ‘Sale and Trafficking of Children.’ Doc. E/CN.4/1999/71. Paragraph 47-48.

8 Committee on the Rights of the Child. (2019, 10 September). [Guidelines regarding 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](#). UN Doc. CRC/C/156. Paragraphs 15 & 49.

9 ECPAT International. (2019, September). [Explanatory Report to the Guidelines regarding 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](#). 25.

10 See e.g. UNODC. (2018). [Global Report on Trafficking in Persons 2018.](#); UNODC. (2016). [Global report on Trafficking in Persons 2016.](#)

Trafficking in Persons report, ranking states on their efforts to eliminate all forms of trafficking as well as providing overviews of global trends in trafficking.<sup>11</sup>

Trafficking and sale of children can occur for numerous reasons. Children may be trafficked in order to force them to beg, to engage in criminal acts and organised crime, they may be forced into armed groups, forced into marriage, forced into labour and other situations. Research on the broad range of instances of sale and trafficking of children has had steadily increasing attention, to the credit of dedicated advocacy, like that by the UN Special Rapporteur on the sale and sexual exploitation of children<sup>12</sup> and the UN Special Rapporteur on trafficking in persons, especially women and children.<sup>13</sup> This paper should be read in the context of this global discourse, however ECPAT International, due to its vision and mandate focuses exclusively on the sub-topic of ***sale and trafficking of children for sexual purposes.***

The sale and trafficking of children for sexual purposes frequently crosses over with other forms of sexual exploitation, such as the production of child sexual abuse material, exploitation of children in prostitution, sexual exploitation of children in the context of travel and tourism and some forms of child, early and forced marriage. Yet “sale and trafficking of children” and “sexual exploitation of children” are different, not interchangeable terms. Understanding the circumstances for sale and trafficking of children in relation to these other contexts is useful because it focuses on the process of the child entering an exploitative situation, as well as who is responsible and who is profiteering. In many countries, legislation on sale and trafficking is quite well defined, so a range of child sexual exploitation circumstances can sometimes be prosecuted using it. However, although the sexual exploitation of children in prostitution is often

related to trafficking, there are other forms of child sexual exploitation (such as online crimes) that can occur without the child having been trafficked.<sup>14</sup> It is important that these situations of sexual exploitation of children are not excluded from attention because they don’t fit definitions of trafficking. All forms of sexual exploitation of children must be given attention.

Any child is at risk of sale and or trafficking for sexual purposes, however children facing a greater risk tend to be those in vulnerable or marginalised situations. These are, in particular, children in out-of-home care (i.e. an orphanage, foster care or some form of residential care), children on the move, specifically if unaccompanied by adults, children in situations of armed conflict, poverty, low socio-economic status and children that are part of minority groups such as ethnic minorities or those that have diverse gender or sexual identities.<sup>15</sup>

However, beyond the various vulnerability factors, it is important to understand the ever-increasing ‘demand side’ that is fuelling these crimes. The discourse on child protection is almost completely limited to focusing on the vulnerability factors that lead to a child being sold or trafficked for sexual purposes, without giving due attention to the complex and nuanced profiles of the perpetrators that drive demand.<sup>16</sup> Commonly, public opinion carries particular stereotypes when thinking about perpetrators of child sexual exploitation. However, just like there is no typical victim, nor is there a typical offender. In fact, the evidence indicates that most child sexual abuse and exploitation is committed by adults in the child’s circle of trust.<sup>17,18,19</sup> This has particular implications as false views carry the danger of law enforcement and child protection programming overlooking certain risks and offenders.

11 United States Department of State. (2020). [Trafficking in Persons Report](#). 3.

12 See Office of the High Commissioner on Human Rights [page](#) on the UN Special Rapporteur on the sale and sexual exploitation of children.

13 See Office of the High Commissioner on Human Rights [page](#) on the UN Special Rapporteur on trafficking in persons, especially women and children.

14 Interagency Working Group on Sexual Exploitation of Children. (2016). [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse](#). 61.

15 ECPAT International. (2016). [Power, Impunity and Anonymity](#). 42.

16 *Ibid.*, 1-2.

17 Lanzarote Committee. (2018). [Protection of Children Against Sexual Abuse in the Circle of Trust](#).

18 Finkelhor, D. & Shattuck, A. (2012, May). [Characteristics of Crimes against Juveniles](#). New Hampshire, USA: Crimes against Children Research Centre, University of New Hampshire. 5.

19 US Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau. (2020). [Child Maltreatment 2018](#). USA: Children’s Bureau. 57.

# KEY CHALLENGES AND TRENDS

In anti-trafficking discourse and national level policy, much emphasis has been placed on the act of ‘movement’ as opposed to the ‘purpose’ of exploitation.<sup>20</sup> This is in part due to the definition within the Trafficking Protocol, which was created with the principal intention of addressing cross-border trafficking and transnational organised crime. The anti-trafficking discourse acknowledges that there still remains some inconsistency in the different ways that human trafficking is interpreted around the world, including variations in the constitutive elements.<sup>21</sup> Furthermore, states have often preferred to address trafficking as an issue of ‘border security’, often in the context of irregular migration.<sup>22</sup> This emphasis by governments and law enforcement on defining trafficking by the *movement* element – and furthermore prioritising movements across borders – has the impact of deprioritising programming that is victim-centred, rights-based or preventative.<sup>23</sup> It can result in domestic trafficking victims being neglected, or not even recognised as victims deserving of assistance.

Furthermore, the emphasis on cross-border movement also leads to some conceptual conflation of trafficking with irregular migration (or people smuggling). The key difference between the concepts being that smuggling is a crime inflicted upon a state border, whereas trafficking is a human rights violation of an individual.<sup>24</sup> Confusion arises because border officials tend not to be trained

to differentiate between the two, i.e. the illegal movement of a person facilitated by another person may be visually identical and tend to happen along the same routes.<sup>25</sup> The issue is also highly politicized with the result that rhetoric and policy can overtake the focus on identifying trafficking victims, including trafficked children.

The requirement for ‘movement’ is only one of the defining elements to prove that trafficking of children has occurred. Despite this fact, due to the common perception that movement is implicit to trafficking, namely through cross-border movement, many states have shaped their legislation around this idea. This then sets a higher threshold for trafficking of children than was intended by the Protocol.<sup>26</sup>

On the flip side are states that have a very broad definition of trafficking, such as the US in its Trafficking Victims Protection Act,<sup>27</sup> which effectively allows all forms of sexual exploitation of children to be defined as trafficking.<sup>28</sup> While largely a positive in terms of better opportunities for prosecution, the risk in this approach can be a resulting lack of clarity and focus on the specific issue of sexual exploitation of children under the umbrella of ‘trafficking’. Interventions and preventative measures are more difficult to design when there is confusion around different categories of victims, the scope of incidence and most importantly the nuances of

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- 20 Wijers, M. (2015). *Purity, Victimhood and Agency: Fifteen years of the UN Trafficking Protocol*. *Anti-Trafficking Review*, Issue 4, 66.
- 21 Chuang, J. (2014). *Exploitation Creep and the Unmaking of Human Trafficking Law*. *The American Journal of International Law*, 108(4), 610.
- 22 Miller, R. & Baumeister, S. (2013). *Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?* *Anti-Trafficking Review*, Issue 2, 24-25.
- 23 Dottridge, M. (2007). *Collateral Damage. Global Alliance Against Trafficking of Women*. 6.
- 24 IACAT. (2016). *What is the difference between trafficking in persons and the smuggling of migrants? Inter-Agency Coordination Group against Trafficking in Persons*, Issue 01, 2.
- 25 UNODC. (n.d.). *Module 11: Smuggling of Migrants and Trafficking in Persons – Differences and Commonalities*. E4J University Module Series *Trafficking in Persons & Smuggling of Migrants*.
- 26 See e.g. Scarpa. (2019). *UN Palermo Trafficking Protocol Eighteen Years on: A Critique*. In Winterdyk, J., Jones J. (eds.) *The Palgrave International Handbook of Human Trafficking*. Palgrave Macmillan, Cham. 7.
- 27 US Code, Title 22, Chapter 78- Trafficking Victims Protection. (2000). *The Victims of Trafficking and Violence Prevention Act of 2000*. Section 103.
- 28 Chuang, J. (2014). *Exploitation Creep and the Unmaking of Human Trafficking Law*. *The American Journal of International Law*, 108(4), 619.

different forms of child sexual exploitation.<sup>29</sup>

Anti-trafficking initiatives need child-specific approaches within them to address the different nature of vulnerability that children face (children trafficked for forced labour, slavery or servitude often also face forms of sexual exploitation).<sup>30</sup> Where possible, there is also a need to disaggregate data on trafficked children based on the purpose of their trafficking, to create a clear picture of various types – such as trafficking for sexual purposes.<sup>31</sup>

In recent years, there has been growing recognition of the phenomenon of domestic trafficking. Both the US Trafficking in Persons reports and UNODC Global reports have emphasised this as a growing trend. The [2019 US Trafficking in Persons Report](#) dedicated a section to documenting improvements in national legal frameworks, which have filled gaps in addressing domestic trafficking. The report notes evidence that this has in turn led to improved detection within those states' borders. The [UNODC 2018 Global Report on Trafficking in Persons](#) in fact notes that most human trafficking victims are trafficked within their own country, with detection of victims in their country of origin increasing over the last 15 years. [The report](#) considers the various explanations that could account for this trend, which could include improvements in cross-border counter-trafficking initiatives in either or both origin and destination countries. It may also be the result of increased awareness as well as improved legislation in countries where domestic trafficking is being detected.

The [UNODC 2018 Global Report on Trafficking in Persons](#) also reports that trafficking for sexual purposes remains the most detected form of trafficking. The former UN Special Rapporteur on the sale and sexual exploitation of children, Maud de Boer-Buquicchio, emphasises that the sale and trafficking of children for sexual purposes is just a part of a likely process which results in exploitation in prostitution, the production of child sexual abuse materials and may happen concurrently with labour

exploitation, domestic servitude, forced labour, or child marriage.<sup>32</sup>

Digital technology and the Internet are increasingly being utilised to enable the trafficking and sale of children for sexual purposes.<sup>33</sup> As the world increasingly connects through technology, an array of risks are present. These connections, while having many benefits, also enable opportunities for traffickers to access children.

Social media is particularly popular as a recruitment tool, as traffickers have access to publicly available information about potential victims that they can use by creating fake profiles with which to deceive victims with fake jobs, relationships, or other methods of recruitment.<sup>34</sup> Furthermore, the easy availability of technology like encrypted messaging platforms, peer-to-peer networks and untraceable financial transactions make it easier for traffickers to operate unseen, to connect, cooperate and evade identification.<sup>35,36,37</sup>

The US National Center for Missing and Exploited Children reported an 846% increase of reports of suspected cases of child trafficking for sexual purposes between 2010 and 2015, which they have found to be in direct correlation with an increased trend of selling children for sexual exploitation online.<sup>38</sup> EUROPOL has similarly reported an increase in the use of online advertisements where children are falsely advertised as adults for the purpose of sexually exploiting them.<sup>39</sup> Sometimes the victims are forced to take part in online video-chat meetings with clients, a practice that blurs the lines between exploitation in prostitution, online child sexual abuse and trafficking. A wide range of ever-adapting methods are used to recruit victims. For example, EUROPOL cites evidence of cases where South American children were lured abroad with the promise of playing for football teams in Europe, only to be trafficked into either forced labour or sexual exploitation.<sup>40</sup>

The clandestine nature of trafficking of children

29 ECPAT International. (2008). [Child Trafficking for Sexual Purposes](#). 14.

30 *Ibid.*, 15.

31 *Ibid.*, 17.

32 UN Special Rapporteur on the sale and sexual exploitation of children. (2020). [Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material](#). A/HRC/43/40. Paragraph 35.

33 UN Special Rapporteur on the sale and sexual exploitation of children. (2016). [25 years of fighting the sale and sexual exploitation of children: Addressing new challenges](#). 10.

34 OSCE. (2020). [Leveraging innovation to fight trafficking in human beings: A comprehensive analysis of technology tools](#). Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, Tech against Trafficking. 18.

35 IACAT. (2019). [Human Trafficking and Technology: Trends, Challenges and Opportunities](#). Inter-Agency Coordination Group Against Trafficking in Persons, Issue Brief 7. 1.

36 United Nations Office on Drugs and Crimes. (2015). [Study on the Effects of New Information Technologies on the Abuse and Exploitation of Children](#). Vienna: United Nations Office. 15.

37 ECPAT International. (2018). [Trends in online child sexual abuse material](#). Bangkok: ECPAT International. 28.

38 United States Senate Committee on Homeland Security and Governmental Affairs. (2017). [Backpage.com's Knowing Facilitation of Online Sex Trafficking](#). 4.

39 EUROPOL. (2018). [Situation Report: Criminal networks involved in the trafficking and exploitation of underage victims in the European Union](#). 29.

40 *Ibid.*, 21.

for sexual purposes makes the crime a significant challenge to detect and therefore achieve an accurate picture of the scale and scope of the problem. This is greatly exacerbated by the overlapping and inter-dependency of various forms of exploitation. Sometimes these definitional issues result in child victims actually being identified and treated as offenders, for example, being treated in the law as illegal immigrants, criminalised for prostitution or as a member of a militia, instead of being recognised as a victim of trafficking for sexual purposes.<sup>41,42</sup>

ECPAT monitors national progress on the fight against sexual exploitation of children by reviewing all publicly available national data on the subject, including on trafficking of children for sexual purposes. This data comprises ECPAT's Country Overview reports, which are published and updated regularly.<sup>43</sup> However the formal data identifying child victims of trafficking for sexual exploitation is consistently low or unavailable for most countries. The lack of disaggregated data can also be seen in the US Trafficking in Persons Reports that very often are unable to disaggregate between women and children when reporting sexual exploitation. Similarly, the UNODC 2018 Global Report on Trafficking in Persons indicates that child victims of trafficking are much more difficult to identify or detect, even if detection of domestic child victims has increased.

Systematic research and data collection on this issue relies almost entirely on the effective identification of victims, the strength of law enforcement and the judicial systems to prosecute offenders. In turn, identification and referral mechanisms are rarely resourced adequately nor include enough appropriately trained personnel to identify child victims of sexual exploitation. The severe lack of available data then presents a challenge in advocating for better systems or best practices. The UN Special Rapporteur on the sale and trafficking of children, in her 2020 annual report, also noted the intersecting factors of inadequate legislation, reporting mechanisms and a culture of silence all contribute to impeding effective identification and data collection.<sup>44</sup> Without accurate data, it is not possible to demonstrate the scope of the problem, making it difficult to advocate effectively to governments to prioritise the protection of children, even when they have ratified the relevant international legislation.

41 UNODC. (2018). *Countering Trafficking in Persons in the Context of Armed Conflict*. UNODC Vienna. 21.

42 Gozziak, E. & Bump, M. N. (2008). *Victims No Longer: Research on Child Survivors of Trafficking for Sexual and Labour Exploitation in the United States*. 74.

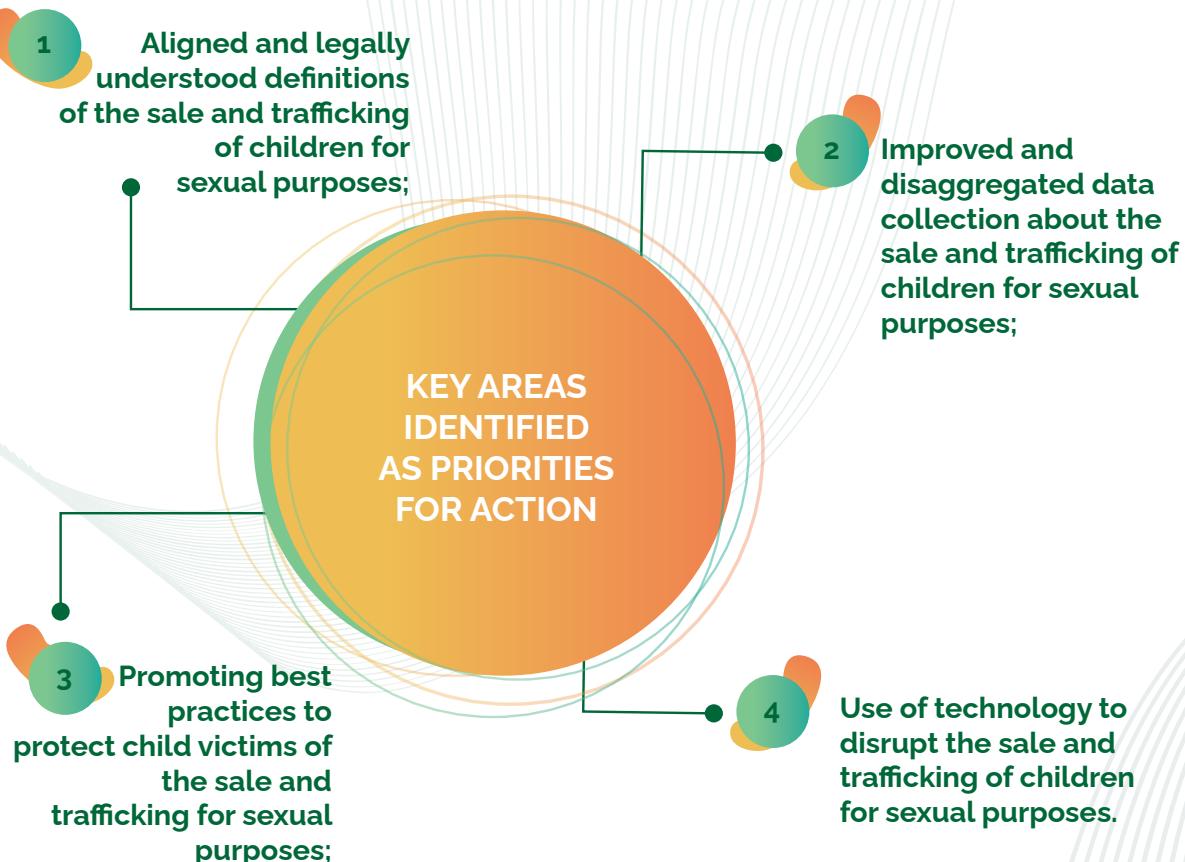
43 See ECPAT International Country Reports Resource Page at <https://www.ecpat.org/country-reports/>

44 UN Special Rapporteur on the sale and sexual exploitation of children. (2020). *Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*. A/HRC/43/40. Paragraph 16.

# PRIORITY ACTIONS

CPAT International promotes approaches to addressing sale and trafficking of children for sexual purposes, which are comprehensive, victim-centred and in the best interests of children. Priority actions should be based on strong evidence of best practices and rigorous and systematic data collection is an essential element of this work.

Regarding the sale and trafficking of children for sexual purposes specifically, ECPAT has identified the following priority actions:



The following sections outline the justification for each action and provide specific recommendations and examples of good practice.

# ALIGNED AND LEGALLY UNDERSTOOD DEFINITIONS OF THE SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES, ROOTED IN THE BEST INTEREST OF THE CHILD

We know that inconsistent legal terms and definitions hamper the response to this issue, influencing both law enforcements and the general public's understanding of the nature of the sale and trafficking of children for sexual purposes. This makes identification of victims and the provision of services a challenge. Ensuring a clear and common understanding of the phenomenon, beginning with legislation based on the Trafficking Protocol, the Convention on the Rights of the Child (CRC) and the OPSC is recommended.

Many national responses on the sale and trafficking of children have shown a predisposition towards the criminal justice and migration control approach, focusing more on arresting perpetrators than prevention and support of victims. It has framed anti-trafficking as a criminal justice issue rather than a human rights issue. The inconsistent terminology around trafficking as a crime leads to different interpretations. This is particularly the case with the meaning of 'exploitation', which is not properly defined in the Trafficking Protocol.<sup>45</sup> This was the result of a compromise, leaving states to determine within their own borders which practices should be considered exploitative but has resulted in inconsistencies.<sup>46</sup>

Evidence-based advocacy efforts are needed to motivate states to improve the application of national legislative frameworks to ensure that perpetrators are prosecuted for conduct related to trafficking and sexual exploitation of trafficking victims. This latter point is particularly important when it comes to trafficking of children for sexual purposes as it implicates those who engage in sexual acts with a child, rather than simply the traffickers who have coerced or induced and maintained the child in an exploitative situation.<sup>47</sup>

This also requires training and capacity building of law enforcement officials in implementation of the range of relevant legislation.

ECPAT has consistently advocated for the use of the CRC and the OPSC in addition to the Trafficking Protocol to ensure a more effective framework for child protection in the context of trafficking. This way a more victim-centred approach can be taken to ensure that vulnerable children, including those that do not fit neatly into law enforcement or border-control driven definitions of trafficking victims, are identified and supported.

**The OPSC should be prioritized as a legal reference tool by states with its clear definition of sexual exploitation of children, which uses language that ensures that any child who is sexually exploited in any context and by any means, is protected.**

<sup>45</sup> As detailed in the Trafficking Protocol "Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs." See UN General Assembly. (2000, November 15). *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children supplementing the UN Convention against Transnational Organized Crime*. Article 3 (a).

<sup>46</sup> Wijers, M. (2015). *Purity, Victimhood and Agency: Fifteen years of the UN Trafficking Protocol*. *Anti-Trafficking Review*, Issue 4, 67.

<sup>47</sup> OHCHR. (2014). *Human Rights and Human Trafficking*. 2-3.

Anti-trafficking discourse generally has a limited scope of recognising the vulnerability of boys to trafficking for sexual purposes. For example there are only 33 mentions of boys in relation to sexual exploitation in the [2020 US Trafficking in Persons Report](#). Furthermore, the reported numbers of boys trafficked for sexual purposes in the [UNODC 2018 Global Report on Trafficking in Persons](#) is also small (27% of only 711 boy victims were detected in 2016 compared to 72% of 2,350 girl victims detected in the same timeframe). Of course, under-reporting means that the number of affected boys is likely to be much higher, yet these known and reported cases still give an indication of the imbalance.<sup>48</sup> Gender norms related to masculinity and popularly understood representations of sexual exploitation<sup>49</sup> are likely to be key factors in the under-reporting of boys being trafficked as well as a reluctance of boys themselves to identify as victims. A study in the UK specifically on the trafficking of children for sexual purposes that paid special attention to boys found that in 2014, of 671 potential child victims, almost half were male.<sup>50</sup>

To address definitional and identification problems, states should prioritise the CRC and OPSC as guiding documents in the development of national legal frameworks and action plans protecting children from being sold or trafficked for sexual exploitation. In both law and practice, assistance and provision of services are often dependent on children's official 'status,' namely their immigration status, national origin and determination of them as a victim. One example of how this can be operationalised and is being practiced comes from Sweden. The category of 'potential victim of trafficking' has been established in law and procedures have been established for social services to be informed and take on a leading role whenever the potential victim is a child.<sup>51</sup> This innovative process represents a strong way of avoiding the need for status determination prior to the provision of services.

48 Josenhans, V; Kavenagh, M; Smith, S; Wekerle, C. (2019). [Gender, rights and responsibilities: The need for a global analysis of the sexual exploitation of boys](#). 3.

49 *Ibid.*, 6.

50 Lucy, L. & Raws, P. (2016). [Boys don't Cry: Improving Identification and disclosure of sexual exploitation among boys and young men trafficked to the UK](#). 9.

51 OSCE. (2018). [Child Trafficking and Child Protection: Ensuring that Child Protection Mechanisms Protect the Rights and Meet the Needs of Child Victims of Human Trafficking](#). *Office of the Special Representative and Coordinator to Combating Trafficking in Human Beings*. 32.

# IMPROVED AND DISAGGREGATED DATA COLLECTION ABOUT THE SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES

We know that accurate and systematic data collection is critical to both understanding the true scope of the sale and trafficking of children for sexual purposes and to inform more targeted and effective advocacy.

The lack of robust data on the sale and trafficking of children for sexual purposes is one of the most significant challenges in addressing the problem. The [2020 report of the UN Special Rapporteur on the sale and trafficking of children](#) stated that without holistic and comprehensive data, education and awareness-raising and other preventive efforts are wholly insufficient.

Human trafficking is by nature a hidden crime, making research and measurement of the scale of the issue challenging. This is further complicated by the fact that studies on the prevalence of trafficking tend to focus on specific populations with perceived vulnerabilities to trafficking, which have been inappropriately employed by journalists, researchers and scholars to generalise about the prevalence of trafficking in the overall population.<sup>52</sup>

It is also noted that research on trafficking tends to over-rely on assisted victims' testimonies, thus representing only those who have been successfully identified as victims, which we know are only a small fraction of the total victims.<sup>53</sup> This may help explain why higher numbers of identified victims are recorded in countries with proactive investigations and robust anti-trafficking laws.<sup>54</sup> Of course, care needs to be taken not to interpret countries with low numbers as not facing this issue - in many instances low numbers may simply represent little or no attempts to measure the problem.

However, there are also many diverse factors at play that affect the number of victims identified and assisted, including social and cultural norms, availability of reporting mechanisms, trust and perception of law enforcement and government institutions, and political will.<sup>55</sup> For example, the data in the US Trafficking in Persons Report's country narratives relies on official numbers reported by relevant authorities of identified victims, however in a large number of countries there is an absence of distinct and robust reporting mechanisms. The data therefore is only as strong as the victim identification mechanisms in the country reporting.

Sound and systematic data collection does occur in some cases. In 2016, the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children and the UNODC piloted a methodology used to estimate the number of victims of human trafficking among a given population. The methodology, entitled [Multiple Systems Estimation](#), approaches the challenge of estimating the number of a 'hidden population' by involving a variety of institutions beyond the police (such as support services and municipal agencies), following the victim-centric approach proposed by the Trafficking Protocol. This methodology has the limitation of requiring states to have the capacity to both detect and keep reliable and accurate records of victims of human trafficking. States lacking this

52 Bales, K., Murphy, L., Silverman, B. (2020). [How many trafficked people are there in Greater New Orleans? Lessons in measurement](#). *Journal of human trafficking* 6(4), 375-387.

53 IOM & Nexus Institute. (2010). [Beneath the Surface. Methodological Issues in research and data collection with assisted trafficking victims](#). *IOM & Nexus Institute Human Trafficking Research Series*. 57.

54 *Ibid.*, 60-61.

55 *Ibid.*, 58-61.

capacity have no greater advantage with this system in assembling reliable data.<sup>56</sup> The methodology has also received criticism for leading to substantial overestimation.<sup>57</sup>

The [IOM's Counter-Trafficking Data Collaborative](#) is a promising attempt to develop a systematic and robust approach to estimating the number of trafficking victims. Rather than a methodology however, it seeks to create a single global data hub

on human trafficking. The data is based on collected case management data from identified cases of human trafficking from contributing organisations. The collaborative effort has been praised for its development of a data standard, which established common criteria and language to be used across different organisations managing victim case data.<sup>58</sup>

56 Saner, R., You, L., Rush, L. (2018). [The measuring and monitoring of human trafficking](#). CSEND, Geneva. 99.

57 Whitehead, J., Jackson, J., Balch, A. & Francis, B. (2019). [On the Unreliability of Multiple Systems Estimation for Estimating the Number of Potential Victims of Modern Slavery in the UK](#). Journal of Human Trafficking. 1.

58 Tech Against Trafficking. (2020). [Accelerating Toward Data Insights: Tech Against Trafficking Successfully Concludes Its Pilot Accelerator](#).

# PROMOTING BEST PRACTICES TO IDENTIFY AND PROTECT CHILD VICTIMS OF SALE AND TRAFFICKING FOR SEXUAL PURPOSES

We know that ending the tolerance of violence against children and the strengthening of criminal justice procedure is crucial to ending the widespread sense of impunity that perpetrators have when they participate in the sale or trafficking of children for sexual purposes. Lack of resources, operational capacity and insufficient training of law enforcement officials contribute significantly to the worldwide low conviction rates of perpetrators, giving them a sense of safety from the law.

While both detection and conviction rates have been steadily increasing across the globe, as the [UNODC 2018 Global Report on Trafficking in Persons](#) shows, the numbers of reported cases -and further still convictions - remain shockingly low. Many countries in Africa and the Middle East have only just begun to register any convictions, which often remain at single digits. While European countries record some of the highest numbers of convictions, [UNODC data](#) shows the trend has seen them drop over the period of 2007 to 2016.

**States must strengthen legal frameworks to enable their national law enforcement bodies to appropriately and collaboratively investigate allegations of sale and trafficking of children for sexual purposes and prosecute those involved, in any way, in the crime.**

Corruption plays a role in the fight against trafficking. A 2011 UNODC issue paper titled [The Role of Corruption in Human Trafficking](#) notes that the countries with higher levels of official corruption also tend to make the least effort to counter trafficking. A report by the International Bar Association notes that in identified cases of public officials participating in the trafficking of human beings including children for sexual purposes, the officials position in some cases provides them with protection from investigation or prosecution as well as access to vulnerable children.<sup>59</sup>

Addressing possibilities for corruption is notoriously difficult, but suggested approaches include training of law enforcement and officials using clear anti-corruption policies, codes of ethics, dedicated anti-corruption units, training for officers to identify the links between corruption and trafficking and fostering a culture of integrity.<sup>60</sup>

Numerous bodies have published guidelines for interviewing victims of human trafficking, investigating perpetrators and achieving successful convictions.<sup>61</sup> Realistically, however, in many states there is a significant lack of political will combined with limited financial resources and personnel, which presents a major barrier for implementing these guidelines. The procedure of investigating and prosecuting child trafficking cases is labour

59 International Bar Association. (2016). [Human Trafficking and Public Corruption, A report by the IBA's Presidential Task Force Against Trafficking](#). 19-22.

60 *Ibid.*, 39-41.

61 See e.g. IOM. (2018). [Investigating Human Trafficking Cases Using a Victim-Centred Approach](#); UNODC. (n.d.). [Anti-human trafficking manual for criminal justice practitioners](#).

intensive, requires strict adherence to ethical and forensic protocols, and requires a range of child

protection specialists, not to mention the significant evidentiary challenges.

## THE CHILD ADVOCACY CENTER MODEL

The Child Advocacy Center (CAC) model originated in the United States in the 1980s and has since proven successful across the country and beyond.<sup>62</sup> To date, there are 881 CACs operational in the US and the model has been adopted in a number of countries around the world, in particular across Scandinavia and many European countries (where it is known as the Barnahus model). The Council of Europe actively promotes the CAC model as a best practice to meet state commitments under the Lanzarote Convention.<sup>63</sup>

A CAC primarily aims to reduce the re-traumatisation of children by limiting how many times they have to speak about their traumatic experience. Following this approach has also proven to deliver more consistent and accurate statements and information from victims that are useful in the criminal justice process. A key element of the model is to coordinate parallel judicial proceedings and child welfare investigations while ensuring support for the victim lasting throughout the process.<sup>64</sup> Furthermore, it aims to stop the cycle of poverty and re-trafficking by offering education and vocational training in addition to counselling and mental health services to address the full spectrum of needs for trafficked and exploited children.

The strength of the CAC model is that it operates as a partnership with foreign and local law enforcement, governmental agencies and local entities and individuals involved in the protection of child victims, such as NGOs and frontline service providers. The model also employs a multidisciplinary team approach, which helps to ensure that best practice and specialised care is provided by all involved with the child.<sup>65</sup> The cooperation fostered between the local multidisciplinary teams and law enforcement officials who are based in the centers also creates trust and collaboration.

## MULTI-DISCIPLINARY TASK FORCES FOR INVESTIGATION AND PROSECUTION

Similar to victim identification and rehabilitation, a multi-disciplinary approach to prosecution is also recommended for this complex crime. The US Department of Justice has championed the use of multi-agency task forces, combining the various specialisations and capacities of differently mandated agencies to collaborate and ensure a victim-centred approach.<sup>66</sup> Such task forces help to overcome issues such as contradictory definitions of trafficking, recognising signs of psychological distress or trauma which ensures a rights-based approach. Such task forces can also agree on a common goal to put the victim at the centre of the criminal investigation, thus achieving successful prosecution of the offender and protection of the victim, even when agencies may have conflicting responsibilities.<sup>67</sup>

<sup>62</sup> US Department of Justice. (2008). *Evaluating Children's Advocacy Center's Response to Child Sexual Abuse*. US Department of Justice, Office of Justice Programs. 1.

<sup>63</sup> Council of Europe. (2003). *Protection of Children Against Sexual Exploitation and Abuse: Child-friendly, multidisciplinary and interagency response inspired by the Barnhaus model*. 1.

<sup>64</sup> *Ibid.*, 2.

<sup>65</sup> US Department of Justice. (2008). *Evaluating Children's Advocacy Center's Response to Child Sexual Abuse*. US Department of Justice, Office of Justice Programs. 2.

<sup>66</sup> US Department of Justice. (2017). *Human Trafficking: Special Initiatives*.

<sup>67</sup> Office for Victims of Crime: Human Trafficking. (2020). *Human Trafficking: OVC Efforts*. US Department of Justice, Office of Justice Programs.

# USE OF TECHNOLOGY TO DISRUPT THE SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL EXPLOITATION

The 2015 annual report from the Special Rapporteur on the sale and sexual exploitation of children included a thematic study on information and communication technology and the sale and sexual exploitation of children. The report commented on the ways in which information and communication technology can be used to facilitate sale and trafficking of children for a range of purposes, including those other than sexual exploitation, namely illegal adoption, organ removal and forced labour.

Legal frameworks are often slow to adapt to the rapid digitalisation of our lives. The rise in technologies role in trafficking is no exception. Laws must be updated to provide adequate tools to enable effective investigation and prosecution of sale and trafficking of children for sexual purposes that involves information and communication technologies. New avenues for traffickers to identify, deceive and coerce children into a situation of sexual exploitation must be addressed.

Besides legal frameworks, there are a wide range of possibilities in the way technology can be leveraged to combat trafficking of children for sexual purposes. Technological interventions can be used to either prevent or disrupt traffickers by using artificial intelligence to identify certain patterns used in online channels. One such example is a tool being developed by Microsoft called [Project Artemis](#), which can intelligently track and trace online conversations between predators attempting to lure children by learning the conversation characteristics typical of such interactions.

Similarly, while technology can indeed offer new ways for perpetrators to avoid detection by eliminating the need for physical contact for financial transactions, technology can also be used to monitor and trace such transactions. There are examples of multi-stakeholder initiatives between NGOs and private financial actors developing tools for analysing the behaviour of traffickers according to their financial activities.<sup>68</sup>

Artificial intelligence and its virtually limitless capacities for machine learning is being increasingly used to address human trafficking. It can be used to make predictions of how a child victim would look as an adult, or enable autonomous communication with potential users of services of sex trafficking victims, as well as being able to recognise the features of hotel rooms where children are sexually exploited and perhaps most significantly, track and disrupt financial transactions associated with child sexual exploitation.<sup>69</sup> Similarly, the innovative '[Spotlight](#)' tool developed by Thorn has identified over 14,847 child victims who had been trafficked for sexual purposes by being advertised online for sexual services and has aided US and Canadian officials in identifying around 17,000 traffickers.<sup>70</sup>

Beyond tools which anti-trafficking entities can utilise to 'even the playing field', all anti-trafficking organisations must build coalitions and partnerships internationally to enhance efforts for research, data collection and advocacy for improved legal frameworks to ensure effective criminalisation of online traffickers and their customers.

**Relevant organisations and other entities must also ensure data collection efforts are adapted and rapidly scaled up to assess the true scope of the use of technology and information and communication technology to facilitate trafficking of children for sexual purposes, as well as support law enforcement in international coordination efforts for investigation and prosecution, seizing evidence and developing innovative online counter-trafficking tools.**

68 OSCE. (2020). [Leveraging innovation to fight trafficking in human beings: A comprehensive analysis of technology tools](#). *Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, Tech against Trafficking*. 48.

69 *Ibid.*, 45.

70 *Ibid.*, 10.

# CONCLUSION

**A**lthough the sale and trafficking of children for sexual purposes have been attracting international political attention and efforts for decades, still much has to be done to fully grasp the extent and patterns of this crime as well as ensuring comprehensive protection for victims and prosecution of perpetrators.

Most of the current gaps are rooted in overlapping and confusing definitions which can impact different areas such as the lack of access to an appropriate level of protection for victims, the misidentification of child victims of trafficking and the lack of specialised support services. Moreover, clear definitions are necessary to collect disaggregated data and information aimed at shaping the best approach each country should take to prevent these crimes from happening and dutifully prosecute all those involved.

The common approaches identified in best practices are the incorporation of the principle of the best interests of the child across all aspects of combatting the sale and trafficking of children for sexual purposes, especially with the focus on the exploitation itself. The use of multi-disciplinary teams and multi-agency task forces has also emerged as a best practice for victim identification, referral and rehabilitation as well as investigation and prosecution of offenders.

National laws and policies need to be synchronised and aligned with international standards and best practices in order to tackle these crimes effectively, build capacity and cooperation between regions and provide consistent and sustainable implementation of anti-trafficking laws and procedures across continents with a firm commitment to child protection.

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