



Global Monitoring



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

HONG KONG SAR



This publication has been produced with the financial assistance of the Swedish Cooperation Agency (SIDA) and The Body Shop Hong Kong. The views expressed herein are solely those of ECPAT International. The support from SIDA and The Body Shop does not constitute endorsement of the opinions expressed.



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Glossary of terms and acronyms

AIDS: Acquired Immune Deficiency Syndrome

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

CBO: Community-based organisation

CEDAW: Committee on the Elimination of Discrimination against Women

CRC: *Convention on the Rights of the Child*

CSA: Child sexual abuse

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

HIV: Human immunodeficiency virus

ICT: Internet communication technology

INGO: International non-governmental organization

IT: Information technology

MoU: Memorandum of Understanding

NGO: Non-governmental organization

NPA: National Plan of Action

OHCHR: Office of the High Commissioner for Human Rights

UN: United Nations

UNESCAP: United Nations Economic and Social Commission for Asia and the Pacific

Foreword

The First World Congress against Commercial Sexual Exploitation of Children (CSEC) 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.

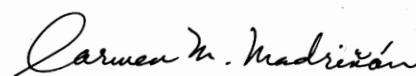
Since 1996, many actors around the world have focused their efforts around this common Agenda for Action and more government and non-government entities have connected, to ensure positive change for children and to protect their right to live free from sexual exploitation. This broad societal alliance (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- and the World Congress III in Rio de Janeiro in 2008, which included delegations from 170 countries) 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, such as 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 action 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 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 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 ECPAT Secretariat and the generous donors who backed the project. 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.

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.



HONG KONG SAR

After being a British colony in the 19th and 20th centuries, Hong Kong became a Special Administrative Region (SAR) of the People's Republic of China (PRC) in 1997. According to the 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's Constitution, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereafter referred to as the Basic Law), specifies that Hong Kong will enjoy a high degree of autonomy except in matters of defence and foreign affairs. Thus, the Hong Kong SAR has its own government (Executive Council), its own Parliament (Legislative Council) and its own legal system and jurisdictions, referred to as the "one country two systems" principle.

Hong Kong has undergone significant and dramatic economic growth and socio-economic changes during the past twenty years, which transformed it into one of the major international financial centres and one of the more wealthy places in East Asia. According to the World Bank, Hong Kong's economy is a "high income" economy, which means that the 2008 GNI per capita is \$11,906 or above¹.

According to the UNDP² classification of countries in relation to their level of Human Development Index, Hong Kong is placed in the category of countries having "very high human development". Therefore, children in the Special Administrative Region enjoy a low infant mortality rate (2.4% in 2005³) and well-funded systems of public education, medical care, and protective services⁴. However, with the increased social and economic integration between the Hong Kong Special Administrative Region and mainland China and the existence of a flow of immigrants (including illegal migrants) mainly from the Southeast Asia Region (e.g. Thailand, the Philippines, Indonesia⁵) there are new challenges with regard to the protection of child rights within Hong Kong's borders.

Child prostitution

Despite the 2005 recommendations of the Committee on the Rights of the Child concluding observations on the report of Hong Kong SAR (as part of the second periodic Report for the People's Republic of China) on the *Convention on the Rights of the Child* highlighting the absence of any data or any reported cases of child prostitution in Hong Kong SAR⁶, the government of the Hong Kong SAR has done little to rectify this.

There is still a lack of official data on the situation of child prostitution in Hong Kong even though some NGOs and the media have reported the existence of forms of child prostitution in Hong Kong SAR, including the growing phenomenon of “compensated dating”. Usually, with “compensated dating”, older men give money or luxury gifts to younger girls for their companionship, dating or sexual favors⁷. In 2008, a 16 year old girl was killed by the man whom she engaged with in compensated dating. After this murder, a special police task force has been set up to investigate the growing phenomenon of “compensated dating” within the administrative region⁸. According to another source, school girls can be influenced to engage in compensated dating by other schoolmates or friends acting as pimps⁹ whereas other teenage girls advertise on the Internet their availability for compensated dating and use chat rooms to contact men interested in compensating dating¹⁰. Although there is a lack of data with regard to the number of victims of compensated dating, according to a survey conducted in 2009 by the Hong Kong Christian Service, 34% of the 600 children and juveniles (aged from 12 to 20) who were interviewed said that they would consider compensated dating mainly to earn quick money¹¹.

The Hong Kong SAR authorities have not taken steps to define and implement specific strategies to effectively tackle the issue of “compensated dating”.

Child trafficking

Hong Kong is a destination and transit territory for men, women and children trafficked from mainland China and Southeast Asia (especially Thailand, Philippines and Indonesia) and also from South Asia, especially Nepal¹². These victims are mainly trafficked for the purposes of forced labour and sexual exploitation.

The Hong Kong SAR government has acknowledged that they find it difficult to identify victims of trafficking among illegal migrants¹³. According to the NGO Zi Teng, these

difficulties are caused by the fact that immigration police officers lack knowledge in the field of identification of victims of trafficking¹⁴. Therefore the majority of women and girls that have been trafficked are considered by the Hong Kong border authorities as illegal migrants and not as victims of trafficking and as such, they cannot access protection and adequate assistance. As Hong Kong's penal legislation applicable to the prosecution of traffickers is weak and not implemented effectively by law enforcement officials (there is no anti-trafficking legislation per se in Hong Kong), there were no investigations, prosecutions and convictions of trafficking offenders during the year 2008¹⁵.

The US Department of State releases annually its *Trafficking in Persons Report* which places countries in different categories (called Tiers) based on the efforts they deployed to effectively combat trafficking in human beings. Countries which have the highest level of compliance with the international anti trafficking standards are placed in **Tier 1**, those who have made some efforts but which do not meet the anti trafficking standards are placed in **Tier 2** and countries which are not making efforts to combat trafficking in human beings are placed in **Tier 3**.

The Hong Kong SAR was placed in **Tier 2** in the US Department of State *Trafficking in Persons Report* 2009¹⁶.

Child pornography /child abuse images

Little research has been conducted on child pornography/child abuse images in Hong Kong SAR and it is notable that sexual crimes against children through the information communication technologies are not adequately highlighted in official data. For example, under the section 'Latest Technology Crimes Alert' of the Hong Kong police Technology Crime Division website where it shows Technology Crime Statistics in Hong Kong between 2003 to 2008¹⁷, there is no statistical information on sexual crimes against children presented.

Child sex tourism

Although sexual offenses against children in the Hong Kong SAR criminal legislation are given extraterritorial effect, there is no available data on any convictions in Hong Kong of permanent residents and or persons who ordinarily reside in Hong Kong who would have committed sexual crimes against children in foreign countries.

Infamous child sex offender denied access to Hong Kong

In 2008, former British rock star 'Gary Glitter' (real name Paul Francis Gadd), 64, who had been convicted in 2006 in Vietnam for sexual abuse of two girls ages 10 and 11 and had served nearly 3 years in the country was finally deported by Vietnamese authorities. As Glitter wanted to escape going back to the United Kingdom, he took a flight to Hong Kong as he thought he could stay there. However local authorities denied him entrance to the Hong Kong territory¹⁸. He was eventually sent back to the UK where he lives under a high level of surveillance¹⁹.

Following the 1996 Stockholm and the 2001 Yokohama global forums on Commercial Sexual Exploitation of Children, China reaffirmed its commitments at the World Congress III against the Sexual Exploitation of Children and Adolescents, in November 2008 in Brazil. The World Congress III renewed global commitment and galvanized international resolve to combat sexual exploitation of children and adolescents.

NATIONAL PLAN OF ACTION

The adoption of a National Plan of Action (NPA) demonstrates a State's commitment to prioritize and allocate efforts and resources to guarantee the rights of the child to be protected from sexual exploitation and trafficking.

The Chinese government has launched a National Plan on Human Rights for 2009-2010 as well as the Chinese National Plan of Action on Combating Trafficking in Women and Children for 2008-2012. Furthermore, the government of the PRC has developed a National Children's Development Programme (2001-2010) in order to develop children's rights in the field of health, education, legal protection and the environment. However none of these Action Plans and programmes are applicable in the Hong Kong SAR where no National Plans of Actions on child protection, including protection against CSEC, are being developed so far. This is despite the reiterated recommendations formulated by the Committee on the Rights of the Child in its Concluding observations on the second periodic report of China (including Hong Kong and Macau Special Administrative Regions) in 2005²⁰.

The government of the Hong Kong SAR should therefore urgently develop such a National Plan of Action on child protection, including CSEC related issues.

COORDINATION AND COOPERATION

Local and National Level

In the absence of a comprehensive child rights policy or of a National Plan of Action on child protection, existing policies regarding children's rights issues in Hong Kong remain uneven. The coordination of existing programs and policies appears to be still *'rather sectorised and fragmented'* (as stated in 2005 by the Committee on the Rights of the Child in its final Concluding Observations on the China fourth national periodic report including Hong Kong and Macau SARs) despite the efforts undertaken by the government to enhance collaboration between government agencies and civil society to promote children's rights.

In 1993 the Hong Kong SAR government established the Committee on Services for Youth at Risk (CSYR), which is a forum to facilitate coordination and collaboration among all relevant governmental agencies (such as Social Welfare Department, Labour and Welfare Bureau, Security Bureau, Home Affairs Bureau, Education Bureau, Hong Kong Police Force, Department of Health and the Action Committee Against Narcotics) to strengthen and improve policies and services for young people²¹.

With regard to cooperation between government agencies and civil society, China stated in its national report (including Hong Kong and Macau SARs) transmitted in 2008 to the Working Group on the Universal Periodic Review that the HKSAR Government maintains continued dialogue with relevant NGOs and has in recent years established the Children's Rights Forum to facilitate and enhance cooperation between government agencies and civil society.

Cooperation and collaboration of key governmental and non-governmental actors involved in dealing with child welfare issues is also facilitated by the Hong Kong Council of Social Service which is an umbrella organisation of over 370 agency members from social services agencies²², such as health organisations/institutes and non-governmental organisations. The Council works closely with the government as well as with NGOs and the private sector. It thus provides a joint platform between relevant government and NGOs involved in the welfare sector²³.

Besides this, synergies between international and local child rights NGOs are encouraged and facilitated by the Hong Kong Committee on Children's Rights which is an independent

body aimed at monitoring the implementation of the CRC, advocating for children's rights at policy level and developing cooperation between local and international child rights NGOs.

Again, despite these examples of efforts carried out by the Hong Kong SAR government to strengthen collaboration between key actors involved in child rights issues, this cooperation will not be fully effective as long as there are no efforts made to establish a national comprehensive policy to address the implementation of children's rights, including the right to protection.

Structures for child and youth participation at the national level

The Children's Council in Hong Kong SAR was first piloted in 2003 and since then, has been the primary structure to represent children's views and the lead mechanism for children to dialogue with policy makers on the promotion of children's rights²⁴. The Children's Council has 60 seats, comprised of 10 Child Ambassadors and 50 Child Councillors who are secondary school students from local schools²⁵. The main activities for the Children's Council is to raise awareness about the UNCRC and promote dialogue and discussion on children's issues through various activities such as workshops, training camps and field studies, as well as collect views from other children and the general public. Based on these, the children prepare motions on children's rights and advocate to Government Officials, Legislative Councillors, Academics, and NGOs²⁶. During the 6th Children's Council in November 2008, the children presented 3 motions, of which 2 related to child protection: "the government should address and tackle the problem of children and young people at risk" and "the government should introduce sex education as a compulsory subject to cultivate proper knowledge and positive values about sex among children."²⁷

The three organizing agencies behind the Children's Council are the Hong Kong Committee on Children's Rights, the NGO Against Child Abuse and the Hong Kong Committee for UNICEF. The Children's Council project is sponsored by the Home Affairs Bureau and supported by Kid's Dream, a child-led organization²⁸.

Regional and International Level

Under article 13 of the Basic Law, the Central People's Government is responsible for foreign affairs relating to the Hong Kong SAR. However, in some cases (in accordance with Chapter VII Article 151 of the Basic Law) the Hong Kong SAR is authorized to develop and maintain relations with foreign states and conclude agreements with them, using the name "Hong Kong, China".

The Hong Kong authorities have signed *Fugitive Offenders Agreements* with the government of 16 countries and *Mutual Legal Assistance Treaties* with the government of 22 foreign

countries. This allows Hong Kong permanent residents or persons who ordinarily reside in Hong Kong who have committed sexual offenses against children abroad to be prosecuted and convicted by the law enforcement authorities of the country where the offense was committed or by the Hong Kong law enforcement officials. More detailed information on the *Fugitive Offenders Agreements* is available in the protection section of the report (extra-territorial legislation).

Examples of regional or bilateral cooperation to uncover people smuggling rings exist between the Hong Kong police and police from Australia, France, the United Kingdom, Canada, and the US²⁹. The Hong Kong SAR Department of Justice has also developed mutual legal assistance with mainland China, including training, mutual visits and exchange activities in order to strengthen co-operation between law enforcement authorities from both sides³⁰.

In 2008, in its capacity as a sub-bureau of the Interpol National Central Bureau (NCB) China, Interpol Hong Kong hosted Interpol's 20th Asian Regional Conference. The Conference included delegates from law enforcement agencies from 32 countries and other specialist invitees (including ECPAT International). The Conference called for an increase of regional operations and efficient use of Interpol's notices and database to combat transnational crime, particularly in tracing and bringing child sex offenders to justice – whether in their country of origin or in the country where the crimes were committed.³¹

Furthermore, members of the Child Protection Policy Unit (CPPU) are regularly in contact with foreign law enforcement agencies and non-governmental organizations in order to be kept abreast of approaches and practices related to child protection, including domestic violence, sexual violence and child pornography. Police officers of the CPPU regularly attend the Interpol Specialist Group on Crimes Against Children meetings, where they exchange information and experience and can develop or strengthen synergies with law enforcement agencies and NGOs from different countries in order to combat crimes perpetrated against children.

Hong Kong hosts international conferences on child protection issues

The 17th ISPCAN International Congress on Child Abuse and Neglect, *Towards a Caring and Non-Violent Community: A Child's Perspective*, was held in September 2008 in Hong Kong, China. The ISPCAN Congress brought together professionals from various disciplines, including medical professionals, social workers, and professionals working on child's rights to share knowledge and learn from their working experiences through plenary

presentations and concurrent workshops. ECPAT International held a panel presentation on 'Private and Public Responsibility in the Fight against child sex tourism.'

In November 2009, The Anglican Communion Office of the United Nations held an international consultation in Hong Kong on Human Trafficking with a Focus on Children in Asia. ECPAT International was invited to present on Child Trafficking Advocacy: Challenges and Good Practices.

PREVENTION

In Hong Kong SAR, little has been done by the public authorities to prevent sexual exploitation of children. Although some progress has been made with regard to preventing the risk of child sexual exploitation through ICT and with regard to the development of deterrence measures such as establishing a sex offender register (not yet in place), the Hong Kong SAR government has not conducted any state activity to prevent other forms of sexual exploitation of children.

The Hong Kong police (Technology Crime Division) has developed a pamphlet called "How to keep your child safe on the Internet" which warns children against the existing dangers for them on the Internet, especially cyberstalking (with reference to paedophiles and chat rooms)³².

With regard to the development of deterrence measures against child sex offenders, following its 2008 proposal on the creation of a sex offender register in Hong Kong, The Law Reform Commission of Hong Kong released a report on "Sexual Offenses Records Checks for Child-Related Work: Interim Proposals" in February 2010³³. This report is aimed at preventing people convicted for sexually abusing children from working in close proximity with children by allowing employers, in the absence of legal provisions, to check the criminal convictions record of employees undertaking child-related work such as teachers, support staff in schools, sport coaches, caregivers, etc.

Despite the above efforts to prevent child sexual exploitation, the government has done little to prevent other forms of CSEC. For instance, in Hong Kong, the awareness raising activities conducted by the government addressing the issue of trafficking in human beings (i.e. the distribution of information kits to migrant workers from Indonesia and

Philippines, who are potential victims of trafficking)³⁴ have not addressed the specific issue of trafficking in children despite Hong Kong's Immigration Authority reporting that hundreds of children were being smuggled (and thus are potential victims of trafficking) from mainland China to Hong Kong in order to be reunited with their family.³⁵

It is also important to highlight that in Hong Kong sexual exploitation and child trafficking are not issues introduced in the school curricula in order to raise awareness among young people about the risks of such abuse and how to protect themselves.



STOP SEX TRAFFICKING OF CHILDREN & YOUNG PEOPLE CAMPAIGN



Conducted in partnership between The Body Shop and ECPAT, this three year campaign (launched in 2009), seeks to provide immediate relief to child victims with funds raised and to create long-term changes through engaging the public in awareness raising and lobbying decision makers to strengthen concerted action against child trafficking for sexual purposes.

Prior to the media event/official campaign launch in Hong Kong, ECPAT conducted a training session on the issue of child trafficking for sexual purposes for the staff of The Body Shop Hong Kong. At the media event, which took place in August 2009, The Body Shop Hong Kong opened the event by introducing the campaign. There was a short presentation to the media on the issue of child sex trafficking. The media was then given the opportunity to ask questions to The Body Shop and ECPAT.



In 2009, funds from the 'Stop Sex Trafficking of Children and Young People Campaign' raised through the sale of the *Soft Hands, Kind Heart* hand cream in Hong Kong have gone towards anti-child sex trafficking initiatives conducted by Beijing Children's Legal Aid and Research Center (BCLARC). BCLARC was founded in 1999 and is the first Chinese NGO to specialize in children's rights. Between 2001 and 2007, BCLARC lawyers provided free legal advice to approximately 26,500 children. Campaign supported activities include awareness raising on child sex trafficking and on children's rights; training of lawyers to provide more effective legal aid to child victims of sexual exploitation and trafficking; improved collaboration between lawyers, schools, parents and youth; and support to allow child victims access to free legal aid.

PROTECTION

International instruments		
Human Rights bodies and instruments related to Child Rights	Comments	
Charter-based bodies		
Working Group on the Universal Periodic Review – Human Rights Council	9 February 2009: Review of China.	
Special Rapporteur on the sale of children, child prostitution and child pornography	No visit so far.	
Special Rapporteur on trafficking in persons, especially in women and children	No visit so far.	
Treaty-based bodies		
Committee on the Rights of the Child	Even though the People's Republic of China has ratified the <i>Optional Protocol</i> , its application to Hong Kong requires prior enactment in domestic legislation ³⁶ which has not yet happened; but it was reported in 2008 that Hong Kong was taking the necessary steps to give effect to the provisions of the <i>Optional Protocol</i> in order to extend its application to the Hong Kong Special Administrative Region. ³⁷	
Children's rights Instruments	Date of ratification	Date of submitted reports
<i>Convention on the Rights of the Child</i> - 1989	Extended to Hong Kong in 1994	3rd report of PR China due since 2004 1st report of HKSAR under CRC was submitted as part of the PRC's second report in June 2003. The CRC issued its concluding observations in 2005.
<i>Optional Protocol on the sale of children, child prostitution and child pornography</i> - 2000	Ratified by PR China in 2002; but not extended to Hong Kong SAR yet	PR China: 1 st report submitted in 2005
<i>ILO Convention on the Worst Forms of Child Labor</i> - 1999 (No. 182)	2002	
<i>UN Convention against Transnational Organized Crime</i>	Ratified by PR China in 2003 but not extended to Hong Kong SAR yet	
<i>UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children</i> – 2000 (supplementing the <i>UN Convention against Transnational Organized Crime</i>)	Ratified by PR China in 2010 but not extended to Hong Kong SAR yet	

According to the “one country, two system” principle set up in the Sino British Declaration, although Hong Kong is a Special Administrative Region of the People’s Republic of China and has its own political system and an independent judiciary, it does not have the legal capacity to ratify international and regional conventions and treaties. Its international and regional legal obligations are conditioned to the ratification of international or regional convention by the government of the PRC and to the enactment of domestic legislation allowing extension of these conventions to the Hong Kong SAR and to the notification of the government of the PRC with regard to the process of extension of the relevant international or regional legal standards to the Hong Kong SAR³⁸.

Hong Kong became a signatory to the *Convention on the Rights of the Child* through extension of the United Kingdom on 7 September 1994. The *Optional Protocol on the sale of children, child prostitution and child pornography* was ratified by the People’s Republic of China but the Hong Kong government has not yet proceeded to the process aiming to extend the Protocol. In November 2008, the Committee Against Torture made a specific recommendation in this regard in its concluding observations on the fourth periodic report of China (including Hong Kong and Macau SARs)³⁹.

As the government of the People’s Republic of China ratified in February 2010 the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Trafficking Protocol)*, the government of the Hong Kong SAR should therefore start the process which will allow the application of the *Trafficking Protocol* provisions to the Hong Kong SAR.

Legislation

The principal domestic legal standards dealing with CSEC related issues in the Hong Kong SAR are the Prevention of Child Pornography Ordinance (2003) and the Crimes Ordinance. Although the Crimes Ordinance contains provisions (especially in Chapter 200 part VI and XII) which can be used to protect children from some forms of sexual exploitation, it does not provide for provisions to address specifically forms of sexual exploitation of children such as child prostitution, child trafficking and child sex tourism in full compliance with the *Optional Protocol on the sale of children, child prostitution and child pornography*. Although the *Optional Protocol* is not yet extended to the Hong Kong SAR, it should be considered as model legislation to be followed.

Prostitution of children

Hong Kong legislation lacks a specific legal framework to address child prostitution. In addition, existing provisions relating to child prostitution do not provide children and juveniles with comprehensive protection against sexual violence and sexual exploitation, especially for those above 16, who are excluded from the scope of the relevant legal provisions on the basis that they have reached the age of consent (which is 16 years according to the provisions of Chapter 200 of the Crimes Ordinance). Such discrimination against children above 16 years (age of sexual consent) with regard to the protection against sexual offenses is inconsistent with international legal standards.

The consent of children should never be considered in cases of sexual violence or sexual exploitation. Therefore, Hong Kong legislation should be amended in order to ensure that all children under the age of 18 should enjoy full legal protection against sexual offenses.

Under Chapter 124 of the Crimes Ordinance, having sexual relations with girls under 16 is a crime. Thus, men having unlawful sexual intercourse with girls under 16 are liable to imprisonment for 5 years and if the girl is under the age of 13, then the offenders are liable to imprisonment for life (Section 124 of the Chapter 200 of the Crimes Ordinance). However, girls under 21 are protected from being procured by someone to have unlawful sexual intercourse in Hong Kong or elsewhere with a third party. Under Section 132 of Chapter 20 of the Crimes Ordinance, offenders shall be liable to imprisonment for 5 years.

It has to be highlighted that Sections 123, 124 and 132 of the Chapter 200 of the Crimes Ordinance contain major gaps as they solely provide protection for girls and not for boys. However, both boys and girls under 16 years are protected against acts of gross indecency. Those who incite such acts toward a boy or girl under 16 commit the offense of indecent conduct towards children under 16 and are thus liable to imprisonment for 10 years (Section 146 of the Chapter 200 of the Crimes Ordinance).

The main provision referring to child prostitution in the Hong Kong domestic penal legislation is chapter 135 of the Chapter 200 of the Crimes Ordinance which stipulates that *a person who causes or encourages the prostitution of or an unlawful sexual act with a girl or boy under the age of 16 for whom that person is responsible shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years*. The person who is responsible for the girl or boy is defined in Section 135 as *“any person who is her or his*

parent or legal guardian, any person who has actual possession or control of her or him, or to whose charge she or he has been committed by her or his parent or legal guardian or by a person having the custody of her or him and any other person who has the custody, charge or care of her or him”.

However, this provision does not provide any definition of child prostitution and only protects children (girls and boys) under 16 years. Juveniles between 16 and 18 are thus not entitled to benefit from the protection provided the law, because they have reached the age of sexual consent. This is a major gap especially with regard to the fact that more and more teenage girls above 16 years are engaging in “compensated dating”, which is a form of child prostitution and as such these children are not considered as victims of prostitution under existing Hong Kong SAR penal legislation. This is a major gap that should be urgently addressed by Hong Kong law-makers.

Also under the Crimes Ordinance, those who publically display or advertise prostitution, including child prostitution, commit an offense and are liable to imprisonment up to 12 months.

Trafficking in children for sexual purposes

As the government of China only recently ratified the Trafficking Protocol, the Hong Kong government has not yet completed the process allowing the extension of the Protocol provisions to Hong Kong SAR. Besides this, the domestic penal legislation does not contain provisions addressing specifically the issue of child trafficking. Trafficking for sexual purposes is thus addressed through different provisions which are not comprehensive and which do not have a specific focus on children.

The Crimes Ordinance defines ‘*Trafficking in persons to or from Hong Kong*’ under the ‘Exploitation of other persons for sexual purposes’ (Section 129 of Chapter 200) as such: (a) *a person who takes part in bringing another person into, or taking another person out of, Hong Kong for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years; (b) it shall not be a defence to a charge under this section to prove that the other person consented to being brought into or taken out of Hong Kong whether or not she or he knew it was for the purpose of prostitution or that she or he received any advantage therefore*.⁴⁰

Under section 130 of Chapter 200, those who harbour and exercise control, direction or influence over another person for the purpose of sexual exploitation are liable to imprisonment for 14 years. In addition, according to Section 37D (1) of the Immigration Ordinance, Cap. 115, those who arrange passage to Hong Kong for unauthorized migrants (that would include victims of trafficking) commit offenses and are liable to a fine of HK\$5,000,000 and to imprisonment for 14 years.

The definition of trafficking in persons contained in Section 129 and Section 130 of Chapter 200 of the Crimes Ordinance is not in line with Article 3(c) of the *Trafficking Protocol* which stipulates that child trafficking is the following offense: “*the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’*”. Moreover, according to section 129 of Chapter 200 of the Crimes Ordinance, the type of exploitation is limited to prostitution whereas according to the *Trafficking Protocol* (article 3 (a)), exploitation for forced labour or services, slavery or the removal of organs should also be included within the definition of trafficking in human beings.

The Hong Kong government should complete the legislative process that will enable extension of the *Trafficking Protocol* to the Hong Kong SAR and harmonise its domestic legislation with the provisions of this international legal instrument, including specific provisions addressing child trafficking.

With regard to the investigation and prosecution of traffickers, the Hong Kong legislation contains special provisions to protect children who are willing to testify against the traffickers. Under Criminal Procedure Ordinance (Section 79 B and 79 C of Chapter 221), children can give evidence or can be examined by way of live television-link or through the video recording of their interview with, for instance, a police officer or a social worker.

Challenges in securing successful prosecutions

The Hong Kong SAR Government received no reports on cases involving children for the purpose of prostitution during 2002-2004⁴¹. In 2007, the Government reported only two trafficking convictions and two other reports of trafficking for the purposes of prostitution with insufficient evidence to warrant prosecution⁴².

Child pornography / child abuse images

Hong Kong SAR has enacted in 2003 specific legislation which criminalizes production, possession and publication of abusive images of children (the Prevention of Child Pornography Ordinance, PCPO) which was a major step forward as prior to the enactment of the PCPO, Hong Kong SAR legislation addressing the issue of pornography (Control of Obscene and Indecent Articles Ordinance – 1987) did not contain specific provisions dealing with child pornography. However, the provisions contained in this specific piece of legislation are not in line with the international child rights legal standards and therefore the protection provided to children against pornography is not comprehensive enough as it does not address child pornography in the context of information and communication technologies. Furthermore it does not impose any reporting obligations upon individuals who may come across child abusive images in the course of their job or upon Internet Service Providers and financial companies. Thus, Hong Kong SAR legislation on child pornography should be reviewed and strengthened in the light of these comments.

The 2003 Prevention of Child Pornography Ordinance (PCPO) in section 2 defines child pornography as “(a) *a photograph, film, computer-generated image or other visual depiction that is a pornographic depiction of a person who is or is depicted as being a child, whether it is made or generated by electronic or any other means, whether or not it is a depiction of a real person and whether or not it has been modified*; (b) *or anything that incorporates a photograph, film, image or depiction, including data stored in a form that is capable of conversion into a photograph, film, image or pornographic depiction*”. This provision stipulates that it is applicable to any soundtracks associated with films or videotapes and laser discs.

The above definition is in line with the provisions of the *Optional Protocol on the sale of children, child prostitution and child pornography* as it encompasses a broad spectrum of depictions, including visual, audio and electronic support and also because it addresses and criminalises the issue of “virtual” child pornography as computer generated images (“morphed images”), cartoons or other visual depictions (including genitals, anal region of a person or the breast of a female person).

Section 3 of the Prevention of Child Pornography Ordinance (Section 3) criminalises the making, production or reproduction, copy, import or export of child abuse images. Offenders are liable to imprisonment up to 8 years and a fine up to HK\$2,000,000. The same penalties are applicable to those who publish child pornography. Those who procure child pornography are liable to imprisonment up to 5 years and a fine up to HK\$1,000,000. However, even though Section 3 criminalizes mere possession of child

abusive images (under this provision possession of child pornography/child abuse images is punishable even though the material is not intended to be distributed), it does not address the possession of child pornography within the context of the use of information and communication technologies (ICT).

The Prevention of Child Pornography Ordinance should thus contain a specific section on child pornography in the context of ICT which would include provisions that would criminalize knowingly accessing and viewing child pornography and should also protect children against the solicitations for sexual purposes through ICT (“grooming”). This issue is closely connected to child pornography as abusers often use child pornographic images to desensitize or blackmail children they are “grooming”.

It has to be highlighted that section 4 of the Prevention of Child Pornography Ordinance defines statutory defences such as “artistic merit” which can be used by those accused to exonerate themselves from criminal liability for writing books or drawing cartoons (such as manga) which would depict children in sexually exploitative situations for instance. This provision should be withdrawn from the Child Pornography Ordinance.

Section 138 A of Chapter 200 of the Crimes Ordinance stipulates that persons who use, procure or offer children under 18 for making pornography or for live pornographic performances are liable to imprisonment up to 10 years and a fine of HK\$3,000,000 if the child is below 16 and to imprisonment up to 5 years and a HK\$1,000,000 fine if the child is above 16 but under 18.

Section 138 A also contains a defense which states that the defendants could exonerate themselves from criminal liability for having used, procured or offered children above 16 but under 18 for making pornography if they can *establish that the person pornographically depicted for making pornography consented to being so depicted and if pornography is solely for the use of the defendant and the person depicted*. That would be the case of a couple above 16 but under 18 taking and possessing photos of themselves. These defences should be interpreted in a very strict way. If these images are distributed, the person(s) responsible for the distribution should be liable to the penalties stipulated by Section 138 A of Chapter 200 of the Crimes Ordinance.

Case study on making child pornography / child abuse images in Hong Kong SAR

In January 2010, a Hong Kong secondary school teacher who took 1,615 semi-naked photographs of nine girls aged 11 to 15 and who fondled the girls' breasts during the shoots, was convicted for indecent assault and for making child pornography. He was sentenced to 4 years of imprisonment by a Hong Kong court⁴³.

It appears though that there are conflicting provisions within the legislation addressing child pornography. Under section 1 of the Prevention of Child Pornography Ordinance, a child is considered a person under 16, therefore provisions criminalizing production, possession and publication of child pornography do not protect children above 16 but under 18 whereas under Section 138 A of Chapter 200 of the Crimes Ordinance all children under 18 appear to be protected against the making of child pornography or live pornographic performances.

The Hong Kong SAR legislation on child pornography does not impose any reporting obligations upon individuals who may be exposed to child pornography as the result of their professional responsibilities (e.g. IT technicians). Similarly, no reporting obligations are imposed upon Internet providers and financial companies.

Cases of possession of child pornography/child abuse images

- In the case of HKSAR vs. Cheng Siu-ming (2007), the suspect had downloaded more than 1,700 child pornographic images onto his computer. He was condemned to a two-month suspended sentence and fined \$50,000⁴⁴.
- In June 2007 a 20-year-old man was found possessing 8,290 child pornography images and 205 videos and was sentenced to probation and 200 hours of community service⁴⁵.
- In 2008, a Buddhist monk was sentenced by a Hong Kong Court to eight months imprisonment for possessing 17 child pornography videos and 85 child abuse photographs⁴⁶.

The above convictions show that Hong Kong magistrates tend to inflict very light sentences on individuals who possess child pornography/child abuse images under the Prevention of Child Pornography Ordinance. Such sentences should be much harsher in order to deter perpetrators from possessing child pornography.

Extraterritorial legislation with regard to child sex tourism related offenses

The Hong Kong SAR legislation does not contain a specific legal framework addressing the issue of child sex tourism. However, legislation contains offenses provisions having *extra-territorial effect* which can be used to combat child sex tourism.

The Crimes Ordinance Schedule 2 defines 24 sexual offenses provisions that have extra-territorial effect which include (among others) intercourse with girls under 16 and 13 (section 123 and 124 of Chapter 200); control over persons for the purpose of unlawful sexual intercourse or prostitution (section 130 of Chapter 200); causing or encouraging prostitution of, intercourse with, or indecent assault on a girl or boy under 16 (section 135 of Chapter 200); and indecent conduct towards a child under 16 (Section 146 of Chapter 200).

The extra-territorial effect of these provisions means, according to Section 153P of Chapter 200 of the Crimes Ordinance, that Hong Kong permanent residents and or persons who ordinarily reside in Hong Kong (including a corporate body that is registered in Hong Kong and body of persons whether corporate or unincorporated that has a place of business in Hong Kong) can be prosecuted under Hong Kong legislation if they commit sexual offenses (among the 24 listed offenses) against children under 16 years outside of the Hong Kong SAR territory.

Section 153Q(1) of the Crimes ordinance stipulates that persons who advertise or promote any sexual offense against children under 16, including the advertising of child sex tours, shall be guilty of an offense and thus are liable to imprisonment for 10 years and to a fine of HK\$3,000,000. The same penalties apply to those who make arrangements for others for the purpose of engaging in sexual activity with children under 16 years in Hong Kong (Section 153 Q(2)).

Another positive aspect of Hong Kong extra-territorial legislation is that it does not contain the requirement of double criminality in relation to sexual exploitation of children abroad. Offenders are liable to penalties under Hong Kong legislation provided that the act they committed against children under 16 years would *have constituted an offense under any of the provisions specified in Schedule 2* (Crimes Ordinance) *had it been committed in Hong Kong*. The law does not require that the act would have also constituted an offense under the legislation of the country where it was committed. Such a requirement can constitute

an obstacle to the prosecution of offenders. In addition, Hong Kong legislation does not require that prosecution of offenders is conditional upon the filing of a complaint by the child victim (Section 12 of Chapter 227 of the Magistrates Ordinance).

Although the inclusion of the above mentioned provisions in Hong Kong legislation is a step forward towards better protection against child sex tourists, it has to be highlighted that these extra-territorial provisions do not apply when offenders engage in sexual conduct with children (boys and girls) above 16 years of age in foreign countries, which is a major gap as children should be protected from all forms of sexual exploitation until the age of 18 years. Furthermore, the Hong Kong extra-territorial legislation does not criminalize travelling with the intent of engaging in sexual activities of children abroad.

With regard to the Criminal Procedure Ordinance (Section 31 of Chapter 221), a person cannot be convicted twice for the same offence. That would mean that child abusers from Hong Kong having being convicted in a foreign country cannot be tried again in their home country for the same offense. However, Hong Kong law enforcement officials should ensure that this principle should only apply where the abuser has served full sentence or if the person has been acquitted.

In order to ensure that Hong Kong permanent residents or persons who ordinarily live in Hong Kong, who have committed sexual crimes against children abroad, do not escape from criminal proceedings, the Hong Kong SAR authorities may extradite these persons to the countries where they committed the offenses on the basis of a formal request issued by the authorities of these countries (which should be among the 16 countries⁴⁷ with which the Hong Kong SAR authorities have signed *Surrender of Fugitive Offenders Agreements* (extradition agreements)).

Case study on Surrender of Fugitive Offenders Agreements (extradition agreements)

In 2007, a worldwide manhunt of a U.S. rapist, who was accused of the production of child pornography involving his own daughter (which was one of the most widely download child pornography videos in years), was launched by United States law enforcement agencies. The investigators tracked down the suspect to China, but China does not have an extradition agreement with the United States. The arrest was successfully made when the suspect traveled to Hong Kong as an extradition agreement exists between Hong Kong SAR and the United States⁴⁸.

sex as In the case where there is no Surrender of Fugitive Offenders Agreements signed with the authorities of the countries where the sexual crimes against children (offense having extra-territorial effect under Crimes Ordinance Schedule 2) were committed, the suspects, who are Hong Kong permanent residents or who ordinarily reside in Hong Kong can be prosecuted and convicted by the Hong Kong law enforcement authorities under Hong Kong laws.

However, in order to avoid obstacles in investigating and prosecuting the suspects (e.g. gathering material evidence and testimonies from the foreign countries where the offenses were committed), the Hong Kong SAR authorities have signed *Mutual Legal Assistance Treaties* (on the basis of the provisions of the Mutual Legal Assistance in Criminal Matters Ordinance (Chapter 525)) with the governments of 22 foreign countries⁴⁹ in order to ensure that the authorities of these countries will provide them with relevant information needed by Hong Kong law enforcement bodies to prosecute and convict the suspects.

Child Protection Units

With regard to the investigation of crimes committed against children, the Hong Kong Police has established in 1997 a specialized Child Protection Policy Unit (CPPU) which is responsible for combating issues such as domestic violence, child abuse, sexual violence and child pornography. The CPPU also runs a joint project with the Social Welfare Department to provide practical information and emotional support to witness children who testify in court⁵⁰.

Child Abuse Investigation Units have been established within the CPPU. Police officers working for these units are specifically trained in the field of child protection and are equipped to deal with cases of sexual abuse of children and cases of child pornography. Together with clinical psychologists of the Social Welfare they form Child Protection Special Investigation Teams⁵¹ which conduct joint investigation and video-recorded interviews for some victims of child abuse in order to provide them with adequate assistance and support.

However, with regard to the human trafficking issue, the collaboration of the Hong Kong police with other governmental agencies such as the Social Welfare Department and the Hospital Authority still lacks specific focus on children.

Support Services for Children

Children who have been victims of commercial sexual exploitation have suffered a number of abuses and violations of their rights, and the State is responsible to provide them with adequate care and protection delivered in the best interest of the child, in respect of the child's specific needs and without any discrimination based on their origin or immigration status for example. Children should be treated as victims and not criminalised⁵².

In Hong Kong, children victims of sexual abuse can access various hotline services in order to get information and to receive immediate support. These services are operated by the government (such as the Hotline Service for Youth at Risk funded by the Social Welfare Department) or by NGOs (such as the Against Child Abuse hotline or the End Child Sexual Abuse Foundation hotline). However, these hotlines may not be equipped to respond adequately to the needs of children victims of all forms of sexual exploitation.

Cases of child abuse known to the Social Welfare Department will be handled by The Family and Child Protective Services Units of the Social Welfare Department which provides a wide range of services for victims of child abuse (e.g. social investigation, crisis intervention). These units will refer children to the necessary services where they can receive medical and psychological support, for example to the Tung Wah Group of Hospitals operating the CEASE Crisis Centre which provides 24 hour assistance for victims (including children) of rape or indecent assault. Through this assistance, victims can receive immediate medical examination/treatment (including pregnancy prevention and screening of sexually transmitted diseases) and can be referred to other necessary services, for example services that provide psychological support such as the Clinical Psychology Units of the Social and Welfare Department.

The Family and Child Protective Services Units can also refer children victims of abuse to some other services, such as the NGO run Family Services Centres/Integrated Services Centres, which provide counseling and therapeutic services, and which can make referrals for other services including psychological service and legal assistance. Child victims of sexual violence can also access the medical assistance and counseling services provided by Medical Social Services Units operating in public hospitals and clinics.

In Hong Kong there are no specific shelters operated or supported by the state where children victims of sexual exploitation and trafficking can access specialized services

meeting their specific needs. However, child victims can be referred by the Social Welfare Department to Youth Social Services (which includes non-institutional care services and institutional care services directed at children who cannot be adequately looked after by their families).

Children victims of abuse can benefit from non-residential care services (foster care - for children under 18 years of age, Emergency Foster Care Service (below 18), Small group homes for children from 4 to 18 years of age and Emergency/Short term Small Group Home for ages 4 to 18). They also can be placed in residential care centres, run by NGOs, such as Children's Reception Centres (primarily for children aged under 18 years of age whose families are in crisis or facing severe difficulties).

Training Law Enforcement Personnel

The Child Protection Policy Unit (CPPU) has developed with the Social Welfare Department (SWD) a joint training on special investigation and video recorded interviews of vulnerable witnesses. This training can be attended by police officers, social workers and clinical psychologists of the SWD. The CPPU also co-organizes training with other departments and NGOs on subjects relating to child abuse, domestic violence and sexual violence⁵³.

Besides this, as already mentioned, the Hong Kong SAR Department of Justice has developed mutual legal assistance activities with mainland China including training, in order to strengthen co-operation between law enforcement authorities from both sides⁵⁴.



STOP SEX TRAFFICKING OF CHILDREN & YOUNG PEOPLE CAMPAIGN



An important advocacy component of The Body Shop and ECPAT 'Stop Sex Trafficking of Children and Young People Campaign' is the country progress card system, which ECPAT and The Body Shop has created to assess the progress of

state action on specific commitments and promises to uphold the rights of the child to protection from sex trafficking and all forms of commercial sexual exploitation. In line with the *2008 Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children* from the World Congress III against Sexual Exploitation of Children and Adolescents, this innovative tool provides readers with information on states' action to combat child trafficking, specifically towards the three goals of the campaign:

1. Community-base prevention programmes to stop child trafficking are reaching at-risk populations;
2. International legal standards for protecting children from trafficking have been incorporated into the national legal framework; and
3. Specialised government services for child victims of trafficking are integrated into national policies.

Hong Kong Summary of Progress Card*			
Goal 1: Community-base Prevention Programmes			
Prevention	Collaboration	Awareness raising	Teacher training
Goal 2: Legal Framework			
Optional Protocol	Trafficking Protocol	National legislation	Special police units
Goal 3: Specialised Services for Child Victims			
Helpline	Shelters	Medical services	Psychological counselling
★	★		

Green = significant action taken by state; Yellow = partial action taken by state;

Red = inadequate level of state action; Star = work are undertaken by NGOs

*The Hong Kong Progress Card is available at ecpat.net.

From the global assessment of the Progress Cards, Hong Kong is among the 28% of states which have been found to have taken limited measures to stop sex trafficking of children and young people. Whilst Hong Kong has developed some measures to combat the trafficking in persons, very limited efforts have been identified to ensure that the specific rights of child victims of trafficking are guaranteed and given special consideration. In particular, public awareness campaigns should be conducted to inform citizens and residents about child trafficking; such campaigns must take place within Hong Kong and at the places of origin of child victims. Also, specific provisions to protect all boys and girls under 18 from all forms of sexual exploitation need to be strengthened. Moreover, since some child victims of trafficking are criminalised; it is still necessary to improve the protection, recovery and reintegration services provided to child victims⁵⁵. The effectiveness of current services and initiatives (e.g. specialised health and psychosocial care, legal counselling, vocational training etc.) to reach out to all child victims of trafficking is of concern.



PRIORITY ACTIONS REQUIRED

National Plan of Action and policies on children and CSEC

- There is an urgent need for the HKSAR Government to adopt specific policies and a National Plan of Action on child protection, including the issue of commercial sexual exploitation of children. This issue should be recognized by the State as a priority in its child protection strategies. A wide range of stakeholders, including children, should participate in the development of such policy.

Cooperation and Collaboration

- The government of Hong Kong SAR should develop a comprehensive policy on children's rights and a National Plan of Action on child protection, including commercial sexual exploitation of children, which would be implemented by relevant key actors from governmental agencies and civil society and followed up by one specific coordinating body.
- Data on CSEC cases should also be collected and disaggregated by gender and age to enable adequate protection and monitoring of cases.

Prevention

- Public awareness campaigns must be conducted to inform citizens and residents about commercial sexual exploitation of children (CSEC) with a focus on specific manifestations which are specifically growing in Hong Kong SAR such as the issue of "compensated dating" which is a form of child prostitution and the making, as well as the possession, of child pornography / child abuse images.
- In order to promote children's participation as an effective prevention strategy against CSEC (particularly against emerging issues such as "compensated dating" and child pornography), specialized strategies for accessing and engaging at-risk children and those affected by CSEC is required. Supporting their active engagement through peer to peer approaches and mainstreaming child protection issues within educational, recreational and other institutions that are related to children is also necessary.

Protection

- The government of the Hong Kong SAR should start the process which will allow the application of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the *United Nations Convention against Transnational Organized Crime* (2000) and the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* to be harmonised within Hong Kong SAR legislation⁵⁶.
- The Hong Kong legislation should be amended in order to ensure that all children under the age of 18 should enjoy full legal protection against all kinds of sexual offenses (inside and outside Hong Kong SAR). The age of sexual consent in Hong Kong (16 years) should never be considered in cases of sexual violence and sexual exploitation.
- The Hong Kong SAR should complete its legislation by adding a provision on knowingly accessing and viewing child pornography materials and should withdraw the defences of “artistic merit” contained in section 4 of the Prevention of Child Pornography Ordinance.
- Reporting obligations should be imposed to individuals who may be exposed to child pornography as the result of their professional responsibilities (e.g. IT technicians). Similar obligations should be imposed upon Internet providers and financial companies.
- The Hong Kong legal framework should also contain provisions protecting children against online solicitations for sexual purposes (“grooming”).
- Law enforcement agencies should increase their efforts to proactively identify child victims of CSEC among vulnerable groups, to vigorously investigate and prosecute cases and ensure that offenders are convicted and receive appropriate criminal punishments. In this regard, judges should inflict harsher penalties to those who possess child pornography / child abuse images.
- Child-friendly procedures should be strengthened to ensure that child victims are not arrested, incarcerated or otherwise punished for acts committed as a direct result of being trafficked.

Child protection units and support services for children

- The Hong Kong police and the Social Welfare Service and the Hospital Authority should enhance their collaboration in order to ensure that they are able to meet the specific needs of children victims of sexual exploitation.
- Systematic training of all relevant stakeholders likely to be in contact and provide care, reintegration and repatriation services to child victims of trafficking and sexual exploitation needs to be implemented.

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