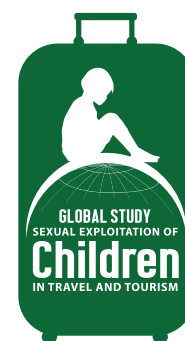


EXPERT PAPER



GOVERNMENTS' RESPONSIBILITIES AS COUNTRIES OF DEMAND, SUPPLY AND/OR VICTIMISATION

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INTRODUCTION

The responsibility of governments to protect children from sexual violence does not end at the national borders. In this paper, we place the fight against sexual exploitation of children in travel and tourism in the broader context of combating sexual violence against children in general. We propose new terminology to emphasize this integration of the two phenomena, and delineate the responsibilities of governments, both within and outside their borders, when it comes to protecting children from sexual violence. Although the cross-border element often makes it more difficult for governments to meet those responsibilities, it does not make them any less important.



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Sexual exploitation of children in travel and tourism: what is it?

We define sexual exploitation of children in travel and tourism (hereafter SECTT) as acts of sexual violence against children where the offender has crossed a border.¹ It is important to stress that the question of whether the offender has given or promised money or goods to the child or any other person is irrelevant. Accordingly, in contrast to some other interpretations or definitions that are adopted internationally, this definition does not require commercial

sexual exploitation.² Furthermore, our interpretation of ‘travel’ also includes (semi-)permanent settlement of offenders in other countries than their countries of origin (migration). However, our definition leaves aside sexual exploitation of children by domestic travellers and tourists; at least two different countries must be involved.

A common explanation given for SECTT is the assumption that the threshold for committing sexual violence against children is lower in less developed countries.³ An offender may find it easier to justify sexual violence against a child to himself⁴ if the child is living in poverty (neutralization techniques). For example, because he is giving the child or the victim's family money or goods (denial of injury: ‘the child is actually grateful’), because the child engages in prostitution in order to survive (denial of the victim: ‘it’s what the child wants’) or because the child is being prostituted (denial of responsibility: ‘sex with children is accepted here’). An offender might also feel that the benefits outweigh the risk of being punished, due to anonymity, the low priority given to tackling sexual violence against children locally, corruption, the possibility of offering bribes to the victims or their families, etc. (rational choice theory). Moreover, opportunities to commit sexual violence against children may be easier to find abroad, for instance in countries with a flourishing child prostitution industry (routine activity theory). The increasing ease with which visits to these countries can be arranged is also a factor, due to the availability of cheap flights and relaxed of visa restrictions.

A new terminology

In literature, countries the offenders come from are referred to as countries of origin (or source countries, exit countries or

sending countries) and countries where children become victims as countries of destination.⁵ These terms are derived from the perspective of the offender, the person who moves between countries. But this labelling of countries causes confusion. As in the case of cross-border sex trafficking, the immediate association made with SECTT is usually one of the offenders from countries with a relatively high standard of living and victims from less developed countries. However, in the case of cross-border sex trafficking the person who moves is not the person seeking sexual services, in other words, the demand side (the offender), but the person who is compelled to provide those services, in other words, the supply side (the victim). Accordingly, traditional countries of origin in the case of SECTT are in fact traditional countries of destination in the case of cross-border sex trafficking and vice versa. To emphasize the relationship between SECTT and other forms of (cross-border) sexual violence against children such as child sex trafficking, we propose the following terminology.

Country of demand: the offender’s country of origin. This is the same in the case of both SECTT and cross-border sex trafficking. Note: in cases of sex trafficking, the term ‘offender’ does not refer to the sex trafficker, but to the offender of child prostitution (the client of the trafficked child/minor exploited in prostitution).

Country of supply: the victim’s country of origin. This is the same in the case of both SECTT and cross-border sex trafficking.

Country of victimization: the country where the child actually becomes a victim of sexual violence/exploitation, which is the country of supply in the case of SECTT, and the country of demand in the case of cross-border sex trafficking.

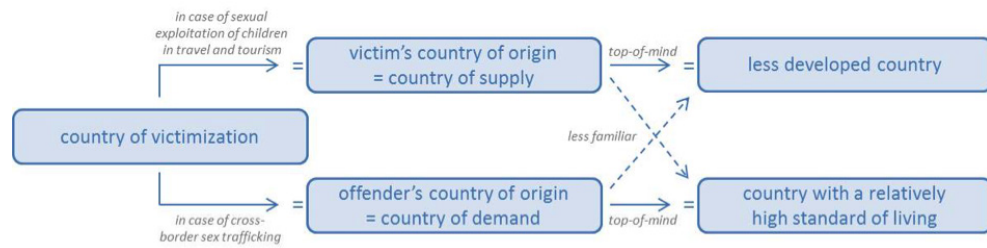


Figure 1: Sexual exploitation of children in travel and tourism versus cross-border sex trafficking: a different country of victimisation

The suggested terminology also provides a solution for the phenomenon of livestreaming of child sexual exploitation material. This online form of SECTT does not involve either offender or victim crossing a border, and thus has no country of destination, but does have a country of victimisation.

Figure 1 further shows that the obvious associations do not fully cover the extent of the two phenomena. For example, children in countries with a relatively high standard of living are also abused by foreign offenders, just as victims of sex trafficking are also recruited in those countries (less familiar). Classifying countries as exclusively a country of demand or exclusively a country of supply, therefore, fails to reflect the actual reality. Furthermore, such a classification creates the risk of tunnel vision and the consequent failure to recognize SECTT or sex trafficking in situations that do not correspond with the top-of-mind associations. After all, the principle that if you don't look, you won't find applies to both phenomena.

Sexual exploitation of children in travel and tourism: who should address it?

Children are entitled to protection against sexual violence. Governments are responsible for preventing and combating sexual violence against children in every situation in which they function as the country of victimisation, the country of demand or the country of supply. In other words, whenever sexual violence against

children occurs in their own territory or occurs in another country but involves their own citizens – whether as an offender or a victim. A government's responsibility does not end at the national borders.⁶

Figure 2 illustrates the relationship between cases of domestic sexual violence against children and cases with a cross-border component. Cross-border cases, such as SECTT, must therefore not be seen in isolation, but in the wider perspective of protecting the sexual integrity of children, always and everywhere. Figure 2 is an Identification Tool for (Inter)national situations of Sexual violence against children (hereafter IT-IS). Governments can use IT-IS as an instrument to identify every situation in which their country is involved – and for which they are therefore responsible.

IT-IS shows that there are seven conceivable situations where a country bears responsibility. Four of them (situations 2, 3, 6 and 7) occur in the country itself (the country itself is the country of victimisation), and three (situations 1, 4 and 5) in another country. Only situation 2 does not involve any crossing of a border by the offender and/or the victim, the other six do. Four of these six cross-border situations constitute SECTT (situations 1, 4, 6 and 7), for in these situations the offender has crossed a border (the country of demand differs from the country of victimisation). The seven situations do not all occur to the same extent, while those that are most common, and, therefore, deserve more attention, differ from one country to another.

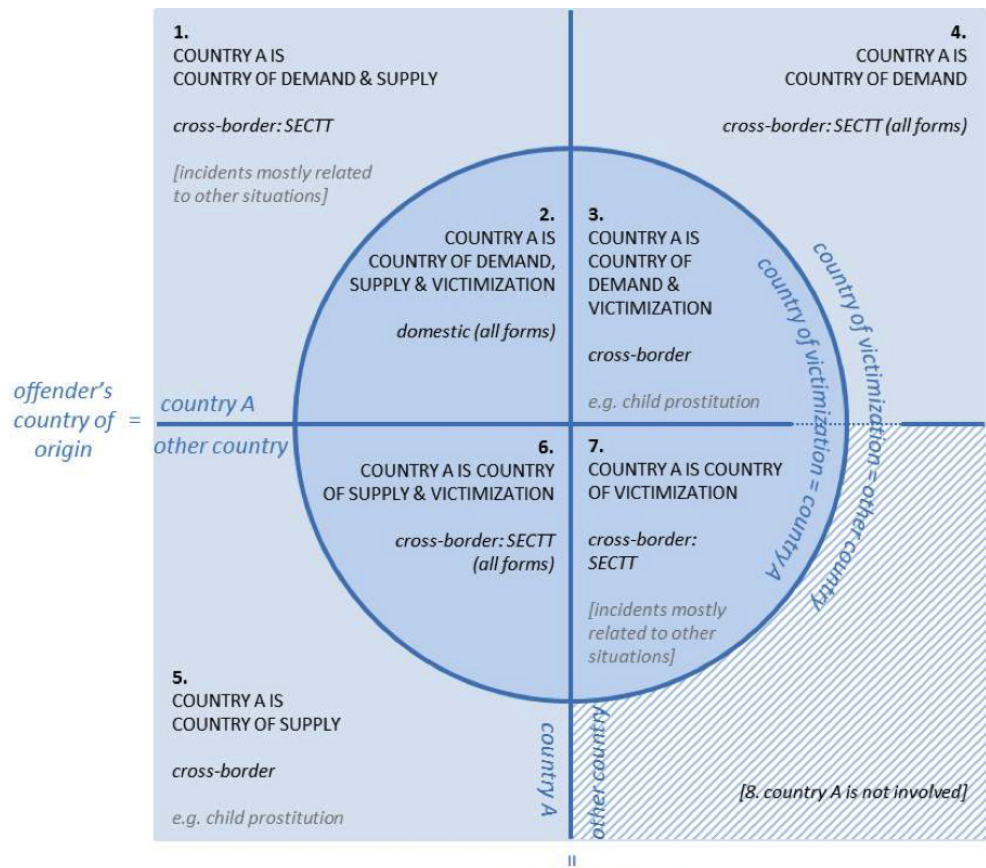


Figure 2: Identification Tool for (Inter)national situations of Sexual violence against children (IT-IS)⁷ [Country A can be any country. The circle in the diagram is that country's own territory (the blue line marked 'country of victimization' therefore represents the country's actual borders), and the four segments outside the circle represent the rest of the world (every other country except country A)].

Naturally, IT-IS situation 2 that is a priority for every country: all forms of domestic sexual violence against children. For example, a father who abuses his own child at home or an offender from country A, guilty of child prostitution in that country that involves a minor exploited in prostitution from that same country (often a victim of domestic sex trafficking).

In cross-border situations (situations 1, 3, 4, 5, 6 and 7), however, there are differences between countries. In these situations, countries that function more as a country of demand than as a country of supply (usually associated with countries with a relatively high standard of living) should focus mainly on situations 3 and 4. Examples would include – situation 3 – an offender from country A, guilty of child prostitution in that country that involves a minor exploited in prostitution from another country (often a

victim of cross-border sex trafficking). Or – situation 4 – a self-styled benefactor from country A, volunteers in an orphanage in another country and abuses children there. In contrast, in countries that are more often the country of supply in cross-border situations (usually associated with less developed countries), the emphasis should be more on situation 5. For example an offender from another country, guilty of child prostitution in that other country that involves a minor from country A (often a victim of cross-border sex trafficking), and situation 6, for example an immigrant who abuses children as an employee of a day care centre in country A. This is not to say that situations 5 and 6 do not occur in the former countries or situations 3 and 4 in the latter countries, so it is important to ensure that the focus on particular situations does not divert attention from cases that fall outside those situations (the risk of tunnel vision).

Situations 1 and 7 are not a priority since instances of them usually follow on from the other situations. For example, situation 1 occurs when the father in the example given for situation 2 also abuses his child during a holiday abroad.

Governments are responsible for combating sexual violence against children, not only within but also beyond their own borders. IT-IS illustrates the situations in which that responsibility arises and how close the relationship is between situations of cross-border sexual violence against children, such as SECTT, and cases of domestic sexual violence against children.

Sexual exploitation of children in travel and tourism: how do you address it?

Governments are responsible for combating all forms of sexual violence against children in which they are involved as the country of demand, supply or victimization. But what does that responsibility involve? It follows from the relationship highlighted in the previous section that measures to address cross-border sexual violence against children should be part of, and should be the same as, the measures taken to combat domestic sexual violence against children. Broadly speaking, measures to combat domestic sexual violence against children (IT-IS situation 2, Figure 2) have three objectives:⁸

- Preventing sexual violence against children, with measures targeted at both potential victims and potential offenders.
- Identifying and punishing offenders of sexual violence against children, including measures to prevent recidivism.
- Identifying victims of sexual violence against children and mitigating the harm they suffer, including measures to prevent re-victimisation.

Accordingly, efforts to combat cross-border sexual violence against children (IT-IS situation 1, 3, 4, 5, 6 or 7, Figure 2) should be designed to achieve those same three objectives. The difference, however, is that this calls for coordination and the exchange of information with other countries and with private actors, and there are obstacles to that in practice. Those obstacles do not, however, relieve a government of its responsibility. Governments should therefore devote specific attention to establishing international and public-private cooperation in their efforts to address cross-border sexual violence against children, including SECTT.⁹

The combination of the seven conceivable situations of sexual violence against children in which a country is involved according to IT-IS (Figure 2) and the three objectives of measures to combat sexual violence against children provides a framework that governments can use to shape their policies against SECTT. By way of an example, we conclude this paper with a brief analysis of Dutch policies to combat SECTT in relation to the three aforementioned objectives.

The Dutch approach to combating sexual exploitation of children in travel and tourism

With respect to SECTT, for the Netherlands IT-IS situation 4 is the main priority, although situation 6 also occasionally occurs. One of the biggest cases of sexual violence against children in the Netherlands is an example of the latter. The case involved a Latvian man who, after a previous conviction relating to child sexual exploitation material in Germany, moved to the Netherlands and found work at a day care centre where he abused more than 80 children.

Although the Netherlands has made significant progress in addressing SECTT in recent years, its strategy, as in many other countries, is still in its infancy. Some

measures to prevent Dutch nationals from committing sexual violence against children in other countries have already been adopted or are being developed (see objective 1). They include the imposition of restrictions on the liberty of child sex offenders convicted in the Netherlands with a high risk of recidivism. The restrictions prevent them from travelling abroad after serving their sentence.¹⁰ But also, for example, the exchange of information and the transfer of supervision within the European Union for a select group of mobile high risk child sex offenders (see the Serious Offending by Mobile European Criminals (SOMECE) project).¹¹ Another measure falling under objective 1 is the sharing of information with other countries about the criminal records of persons who wish to work with children abroad.¹²

Dutch authorities have also taken measures to achieve objective 2: identifying, reporting, investigating, prosecuting, trying and punishing Dutch nationals who have been guilty of sexual violence against children in another country. In 2016 and 2017, for example, the Netherlands will coordinate the European campaign entitled 'Don't look away', the aim of which is to create a broad international structure for the identification and subsequent reporting of SECTT.¹³ The basic principle of the policy towards the investigation and prosecution of offenders is that it should take place in the country of victimisation.¹⁴ In situation 4, this is a country other than the Netherlands. The Netherlands has intensified its efforts to share information and provide legal assistance, for example by appointing liaison officers, by cooperating with non-governmental organizations and by making formal arrangements (in multilateral or bilateral treaties or Memoranda of Understanding).¹⁵

A notable omission, however, is the absence of measures designed to mitigate the harm suffered by victims (objective 3) in cases of SECTT in situation 4 (a Dutch national who commits sexual violence against a non-Dutch child in another country). For that other country, IT-IS situation 6 (a foreign national, a Dutch citizen, who commits sexual violence against a child from that country in the country concerned). In some cases, that country will take responsibility for these victims who are its own citizens (as the Netherlands will do in situation 6). However, that leaves the question of what responsibility the Netherlands has in those cases where the other nation fails to do so.

CONCLUSION

Children are entitled to protection against sexual violence. The responsibility of governments to provide this protection is generally clear when sexual violence occurs within the borders of their country, but it does not end there. Governments have a duty to fulfil whenever they are involved as the country of origin of offenders (country of demand), the country of origin of victims (country of supply), or the country of victimisation. Broadly speaking, these duties are 1) to prevent sexual violence against children from occurring, 2) to find and sentence offenders and prevent them from reoffending, and 3) to find victims and minimize the damage done to them. Governments should strive to extend the application of the national measures they have in place for achieving these three goals beyond their borders whenever they are involved.

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ENDNOTES

1. Sexual violence against children covers all sexual acts that are offences under the Dutch Criminal Code and of which children are the victims, and includes both hands-on (sexual abuse of a child, child prostitution) and hands-off (child sexual exploitation material, for example) offences. These encompass all behaviour that constitutes sexual exploitation and sexual abuse of children as referred to in the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007) (Lanzarote Convention).
2. The synonym 'child sex tourism' is often defined as a specific form of commercial sexual exploitation of children, for example by the Special Rapporteur on the sale of children, child prostitution and child pornography (UN Special Procedures, "Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid", UN Doc. A/HRC/22/54, (2012), para. 17).
3. B.J. Long, "It's not easy being a child lover: applying techniques of neutralization theory to case studies of intergenerational intimacy in the Philippines", *International Journal of Psychosocial Rehabilitation* 15, no. 2 (2011): 79-84; W.J. Newman, et al., "Child sex tourism: extending the borders of sexual offender legislation", *International Journal of Law and Psychiatry* 34 (2011): 116-121; J. Walters and P.H. Davis, "Human trafficking, sex tourism, and child exploitation on the southern border", *Journal of applied research on children: informing policy for children at risk* 2, no. 1 (2011): article 6; M. Colby, "Partnerships to End Child Sex Tourism", posted 22 July 2011, <http://blog.usaid.gov/2011/07/partnerships-to-end-child-sex-tourism/>; A.R. Tanielian, "Illicit supply and demand: child sex exploitation in South East Asia", *National Taiwan University Law Review* 8, no. 1 (2013): 97-140; Defence for Children-ECPAT the Netherlands, Protection of children against sexual exploitation in tourism (Leiden: Defence for Children-ECPAT the Netherlands, 2013), 7; C.R. Zafft and S. Tidball, "A survey of child sex tourism in the Philippines", (paper 22 presented at the Second Annual Interdisciplinary Conference on Human Trafficking, Lincoln, 30 September-2 October 2010).
4. Or 'herself'. In this paper, the use of the masculine pronoun in relation to offenders always refers also to female offenders.
5. For example in the Declaration and Agenda for Action (1996) of the First World Congress against Commercial Sexual Exploitation of Children.
6. See also article 4, Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000).
7. NB: the offender in this case is the offender for whom committing sexual violence against children is the sole purpose of his actions (as with the offender of child prostitution for instance). It is expressly not the sex trafficker, whose objective is (also) profit.
8. See also article 19, UN Convention on the Rights of the Child (1989).
9. See also art. 10, Optional Protocol to the CRC and art. 38, Lanzarote Convention.
10. Dutch Ministry of Security and Justice, "Voortgangsrapportage Kinderpornografie en Kindersekstoerisme (Progress report on Child Pornography and Child Sex Tourism)", *Parliamentary Documents II 2014/15*, 31 015, nr. 112 (The Hague, April 2015).
11. H. Kemshall, G. Kelly, B. Wilkinson and S. Hilder, *Offender Management User Guidance, Assessment and Management of Serious Mobile European Criminals (SOMECEC)*, 2015), 45.
12. Dutch Ministry of Security and Justice, "Plan van Aanpak Kindersekstoerisme (Action Plan against Child Sex Tourism)", supplement 1 *Parliamentary Documents II 2013/14*, 31 015, nr. 93 (The Hague, October 2013), 6-7; Dutch Ministry of Security and Justice, "Voortgangsrapportage (Progress report)".
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14. Dutch Ministry of Security and Justice, "Plan van Aanpak (Action Plan)", 9.
15. Dutch Ministry of Security and Justice, "Voortgangsrapportage (Progress report)".

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