



# CAMBODIA

**ECPAT**

## COUNTRY OVERVIEW

*A report on the scale, scope and context of  
the sexual exploitation of children*



This publication has been produced with the financial assistance of the Swedish International Development Cooperation Agency (Sida), The Oak Foundation, Irish Aid, Terre des Hommes Netherlands and the Hilton Prize Coalition. The views expressed herein are solely those of ECPAT International. The support from these donors does not constitute endorsement of the opinions expressed.

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# Acronyms

<b>AACF</b>	ASEAN Children’s Forum
<b>ACTIP</b>	ASEAN Convention against Trafficking in Persons, Especially Women and Children
<b>ACWC</b>	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
<b>APLE</b>	Action Pour Les Enfants
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CCWC</b>	Commune Committees for Women and Children
<b>CEFM</b>	Child, Early and Forced Marriage
<b>CEOP</b>	Child Exploitation and Online Protection
<b>CNCC</b>	Cambodian National Council for Children
<b>COSECAM</b>	Coalition to Address Sexual Exploitation of Children in Cambodia
<b>CRC</b>	Convention on the Rights of the Child
<b>CSAM</b>	Child Sexual Abuse Material
<b>CSEM</b>	Child Sexual Exploitation Material
<b>CTIP</b>	Counter Trafficking in Persons Program
<b>DAHTJP</b>	Department of Anti-Human Trafficking and Juvenile Protection
<b>FTZ</b>	Free Trade Zone
<b>ICMEC</b>	International Centre for Missing and Exploited Children
<b>ILO</b>	International Labour Organisation
<b>IPEC</b>	International Programme on the Elimination of Child Labour
<b>MOSAVY</b>	Ministry of Social Affairs, Veterans and Youth Rehabilitation
<b>MoU</b>	Memorandum of Understanding
<b>NGO</b>	Non-Governmental Organisation
<b>NGO CRC</b>	NGO Committee on the Rights of the Child
<b>NPA</b>	National Plan of Action
<b>NSDP</b>	National Strategic Development Plan
<b>OCSE</b>	Online Child Sexual Exploitation
<b>OPSC</b>	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
<b>SDG</b>	Sustainable Development Goals
<b>SECTT</b>	Sexual Exploitation of Children in Travel and Tourism
<b>SOMTC</b>	Senior Officials Meeting on Transnational Crime
<b>TICW</b>	Mekong Sub regional Project to Combat Trafficking in Children and Women
<b>TIPSE</b>	Law on Suppression of Human Trafficking and Sexual Exploitation
<b>ToT</b>	Training of Trainers
<b>UNICEF</b>	United Nations Children’s Emergency Fund
<b>UNDOC</b>	United Nations Office on Drugs and Crime
<b>UNWTO</b>	United Nations World Tourism Organisation
<b>UPR</b>	Universal Periodic Review
<b>VSNP</b>	Village-Safety Net Program

## Preface

Over a decade since the publication of its first Country Monitoring Reports (CMRs) on Sexual Exploitation of Children, ECPAT International is sharpening its monitoring efforts in order to better address and represent the evolving incidence and existence of SEC in the world today.

Recent years have seen some unprecedented opportunities that have embedded the child's right to protection from sexual exploitation more deeply into the global agenda, no more so than the global mandate to eliminate the sexual exploitation of children (SEC) enshrined in the Sustainable Development Goals (SDGs) adopted by world leaders in 2015. ECPAT International's decision to transform its Country Monitoring Reports into more concise and targeted ECPAT Country Overviews on SEC will ensure a more effective tool for advocacy at all levels and monitoring, including commitments made in the SDGs to end violence against children in all its different forms by 2030.

The report's structure aims at providing a comprehensive baseline of information on all manifestations of SEC in a country and an assessment of achievements and challenges in implementing counteractions - including the participation of children themselves - to eliminate SEC. They also suggest concrete priority actions urgently needed to proactively advance the national fight against SEC and enable the monitoring of the implementation of international instruments on child rights related to sexual exploitation that have been ratified by the State. Furthermore, the ECPAT Country Overviews provide well-organised information and research, which can be used in preparing Alternative Reports

and Additional Submissions to the Committee on the Rights of the Child and the Human Rights Council.

The preparation of this report is based on a review of the literature available on sexual exploitation. Drafts are shared with ECPAT members, relevant organisations, partners and local experts working on the ground who review the content and supplement the information with other local sources and analysis.

ECPAT International greatly relies on the contributions of all those involved in producing these reports and would like to express its profound appreciation for their invaluable inputs.

This particular report addresses the different forms of sexual exploitation of children in Cambodia. Cambodia remains a key destination for the sexual exploitation of children in travel and tourism, as well as for the trafficking of children for sexual purposes. Child, early and forced marriages are still occurring in rural areas and the online sexual exploitation of children appears to be on the rise. Whilst the Government of Cambodia has set up a strong legal framework to prevent and protect children from sexual exploitation, the report highlights some major gaps when it comes to its implementation and the development of preventive measures. Whilst Cambodia is making progress, it still needs to intensify its efforts in addressing the root causes leading to sexual exploitation, fighting impunity and corruption, as well as improving children's access to justice and recovery.

## Executive Summary

The Kingdom of Cambodia is a constitutional monarchy located in the Greater Mekong Subregion. After decades of political instability and violence, the country has reached the lower middle-income status in 2015. However, a major part of the population, especially in the countryside, lives below the poverty line. Children (persons under the age of eighteen) represent around one third of the population and many of them, driven by poverty, engage in child labour, including sexual exploitation.

In Cambodia, sexual exploitation of children (SEC) can take various forms. The **exploitation of children in prostitution** is prevalent all over the country and especially at touristic hotspots, and it affects boys as much as girls. However, the secretive and clandestine nature of this crime, whether it is 'establishment-based' or 'street-based', makes accurate statistics on the number of child victims difficult to obtain. Low costs of travel, cheap prostitution and poverty make Cambodia a key destination for **sexual exploitation of children in travel and tourism**. More specifically, 'orphanage tourism' is a growing trend affecting children living in residential care institutions and at high risk of being abused. Foreigners, although they are the most 'visible', are not the only child sex offenders. The majority of offenders are Cambodian or come from other Asian countries. In particular, they are the main demand for of the '**virgin trade**', a big business that thrives due to cultural myths around young girls' virginity. Cambodia is also a source, transit and destination country for child victims of **trafficking for sexual purposes**. Children are trafficked to Thailand and Vietnam and from Vietnam to Cambodia. Indeed, Vietnamese children represent one third of the children engaged in prostitution in Cambodia. **Online child sexual exploitation (OCSE)** is also a growing concern. Mobile connections and Internet access have increased, and with them,

the vulnerability to sexual exploitation enabled through digital technology. Finally, children in Cambodia are also subject to **child early and forced marriages (CEFM)**, especially in the more rural areas, such as Rattinikiri and Mondulkiri, which can lead to sexual exploitation.

To fight SEC, the Government of Cambodia has ratified the Convention on the Rights of the Child (CRC) and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC), as well as the ILO Convention on the Worst Forms of Child Labour. At the national level, it has enacted the **Law on Suppression of Human Trafficking and Sexual Exploitation of 2008** (TIPSE Law). The Law provides some comprehensive sets of definitions and penalties regarding the sexual exploitation of children in prostitution and the trafficking of children. It is complemented by the **Cambodian Criminal Code of 2010**. However, there remain several important gaps in the Law, especially regarding OCSE. Moreover, Cambodian law does not provide for any provisions defining or explicitly criminalising the sexual exploitation of children in travel and tourism, but it has quite an exhaustive **extraterritorial legislation** and it applies the active and passive nationality principles.

Cambodia is a member of the **Association of Southeast Asian Nations (ASEAN)**, a regional mechanism particularly active regarding the issue of SEC in the region. It has adopted the ASEAN Tourism Agreement in 2002, which addresses prevention of SECTT; specific Guidelines for the Protection of the Rights of Trafficked Children in 2007 and the Convention against Trafficking in Persons, Especially Women and Children (ACTIP) in 2015. It has set up several commissions, a regional Taskforce and a Children's Forum to improve prevention of SEC, and has developed several programmes and plans of action within

this framework. Cambodia also takes part in the **Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT)**, which promotes and strengthens regional cooperation against human trafficking, and in the **Bali Process** to raise awareness on the consequences of trafficking. Finally, Cambodia signed several **Memoranda of Understanding (MoUs)** on cooperation for combating human trafficking with neighbouring countries.

At the national level, the government established different **committees and a National Council for Children** in order to **coordinate** its efforts on fighting SEC. It has adopted several national **plans of action** and programmes, and cooperates with the NGO sector to implement them. However, NGOs still have limited input in the development of strategies to combat SEC despite their essential role and expertise. The Government of Cambodia, child rights NGOs, international organisations and the private sector have developed and implemented a number of **preventive actions** in Cambodia, especially against SECTT and trafficking of children for sexual exploitation. Activities include dissemination of and training on the OPSC, technical training for law enforcement officers, capacity building of service providers in local communities, awareness-raising and nationwide campaigns. However, despite an increasing number of initiatives, preventive measures remain inadequate and scattered: several manifestations of SEC are still not specifically targeted and underlying root causes leading to vulnerability to sexual exploitation are not sufficiently addressed.

When it comes to **protection measures**, several challenges appear. The Government has developed several databases to gather information on sexual exploitation but they are focusing primarily on trafficking and are insufficiently accessible at provincial level. Law enforcement also lacks the financial resources and skills to conduct investigations, especially on CSAM/CSEM and OCSE. The CRC Committee also expressed its concern about the low prosecution and conviction rates and the high level of corruption.

The **Cambodian Justice system** is evolving but it is not yet fully equipped to respond to the needs of children victims of SEC. There is no independent mechanism to receive and address complaints from children and no specific provision for child protection in the criminal justice process. The **Law**

**on Juveniles Justice** mainly deals with children who are suspects of or accused of committing offenses, and addresses the case of child victims or witnesses only when it comes to privacy issues. NGOs once again play a very significant role in getting some children to go to court, by offering **legal representation**. The Ministry of Justice has issued several *prakas* to set better **child-friendly courtrooms**, using screens and TV-linked testimonies for example; but this equipment is barely used.

Furthermore, in 2011 and 2015, the CRC Committee highlighted the absence of **state-run recovery and reintegration programmes** in Cambodia. Psychosocial rehabilitation services and shelters for child victims of sexual exploitation are mainly concentrated in the capital and run by NGOs. Efforts need to be put into increasing supporting services for male victims, as their abuse and needs are often misunderstood and they suffer from a lack of empathy. Specialist services and trainings addressing the needs of boys do exist and are primarily provided by NGOs, but countrywide coverage is lacking.

Penalties for a SEC offence are stated in terms of both prison time and **financial compensation** for the victim. However, there is no legal way to enforce payment, and therefore no guarantee that the offender will indeed pay. Victims have to wait sometimes for years before receiving compensation or are given less than they should, due to the common practice of 'out-of-court settlements'. Compensation management is needed to make sure that the money directly benefits the child victim.

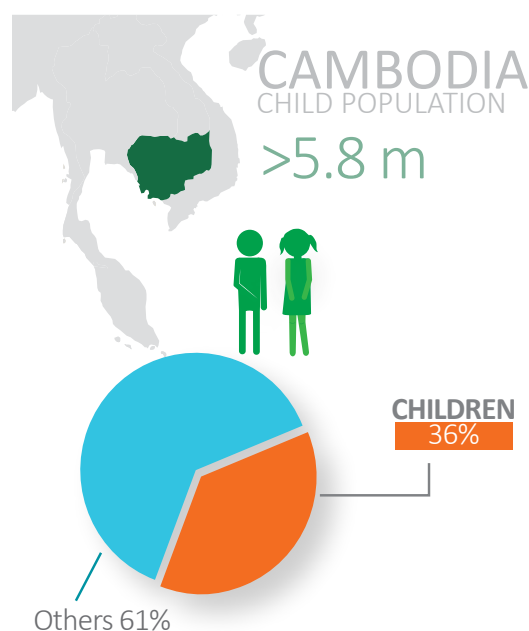
**Child participation** is essential in the development of relevant policies regarding issues affecting their lives. The importance of ensuring meaningful child and youth participation has been recognised by ASEAN Member States, including Cambodia, in the Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children adopted in 2011. Furthermore, the **ASEAN Children's Forum (ACF)** allows children to express their views and assert their rights. At the national level, the **Cambodian National Council for Children** has promoted child participation when implementing action plans. Efforts to ensure the participation of children and youth in policy-making are also on NGOs' agendas.

# Introduction

## COUNTRY OVERVIEW AND SPECIFIC VULNERABILITIES LEADING TO THE SEXUAL EXPLOITATION OF CHILDREN

The Kingdom of Cambodia is a Southeast Asian country, located in the Greater Mekong Sub-region. Cambodia is a constitutional monarchy, with a population of over 16 million inhabitants.<sup>1</sup> Khmer people make up 97.6% of the Cambodian population, followed by the Cham (Muslim minority) and the indigenous ethnic group called Khmer Loeu.<sup>2</sup> The main language is Khmer<sup>3</sup> and the main religion is Buddhism, followed by Islam, Christianity and Animism.<sup>4</sup>

Following two decades of strong economic growth, Cambodia has reached the lower middle-income status in 2015, with a GDP per capita of of 1070 dollars in 2016.<sup>5</sup> However, more than 70% of Cambodians still live on less than 3 dollars a day, therefore remaining vulnerable to falling back into poverty.<sup>6</sup> In terms of Human Development, Cambodia ranks 143th out of 188 countries, which places Cambodia in the lower quartile of



countries considered to have “Medium Human Development”.<sup>7</sup>

According to Cambodian national legislation, a child is “a person under the age of eighteen”.<sup>8</sup>

1 World Population Review, “Cambodia population 2017”, accessed 24 July 2017, <http://worldpopulationreview.com/countries/cambodia-population>.

2 *Ibid.*

3 Hays, Jeffrey (2014), “Religion in Cambodia”, Facts and details (blog), accessed 24 July 2017, [http://factsanddetails.com/southeast-asia/Cambodia/sub5\\_2e/entry-2879.html](http://factsanddetails.com/southeast-asia/Cambodia/sub5_2e/entry-2879.html).

4 Tourism of Cambodia (2017), “Religion in Cambodia”, accessed 5 September 2017, <http://www.tourismcambodia.com/about-cambodia/religion.htm>; Hays, Jeffrey (2014), “Religion in Cambodia”, accessed 5 September 2017, <http://www.tourismcambodia.com/about-cambodia/religion.htm>.

5 The World Bank, “GDP per capita – Cambodia”, accessed 24 July 2017, <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD>

6 Asian Development Bank, “Cambodia and ADB”, accessed 24 July 2017, <https://www.adb.org/countries/cambodia/main>.

7 United Nations Development Programme (2016), “Human Development Indicators – Cambodia”.

8 Government of Cambodia (2007), “Civil Code of Cambodia”, Article 17, accessed 24 July 2017, [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=93489&p\\_country=KHM&p\\_count=183](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=93489&p_country=KHM&p_count=183).

Children represent 36% of the population (5,854,000).<sup>9</sup> School education is compulsory from grade 1 to 9 (approximately 15 years of age).<sup>10</sup> Although the primary school enrolment rates are high (95% in 2016),<sup>11</sup> many children from poor rural families, ethnic communities and those with disabilities do not complete primary school.<sup>12</sup> In remote areas, children must travel long distances to reach school, and transportation is limited. This especially affects girls because of safety concerns when travelling between home and school. Moreover, even though the general minimum age of work is 15 years,<sup>13</sup> or 12 years old for light work activities<sup>14</sup> and 18 years old for hazardous work, children often leave school to help their families, or combine school with other activities to contribute to the family's income. Income-generating opportunities in various sectors have the potential to keep children out of school, affecting their education. UNICEF estimates that 1 in 10 children are engaged in child labour, including in the worst forms of child labour such as sexual exploitation.<sup>15</sup>

The age of consent is 15 years<sup>16</sup> and the age of marriage is 18 years for boys and girls, or 16 years with parental consent for both genders.<sup>17</sup>

Birth registration provides children with an official identity that can give them access to services and shield them from exploitation throughout their childhood. The birth registration rate in Cambodia is only 73%.<sup>18</sup> Not all births are registered immediately, primarily due to parental delay.

Moreover, children born under the Khmer Rouge regime and subsequent Vietnamese occupation were often not registered. As a consequence, many of these unregistered persons did not perceive the need to register their own children.<sup>19</sup> Indeed, young persons were registered only if a need arose. This lack of birth registration can result in discrimination, including the denial of access to education, public services or healthcare.<sup>20</sup>

Cambodia's child protection and welfare services remain weak, understaffed and lack funds. Such gaps in welfare services and in poverty levels can lead parents to resort to alternative measures such as unsafe migration, abandonment or placement of children in residential care.<sup>21</sup> Approximately three in four children living in residential care institutions have at least one parent who is known to be alive.<sup>22</sup> Unfortunately, parents are not aware of the negative consequences this could have on their children. A lack of family and social support increases the risk for these children to end up living and working on the streets, exposing them to sexual abuse, trafficking, dangerous child labour and exploitation. Moreover, the Government's budget to monitor alternative care institutions is still insufficient and children are at risk of suffering from unsafe and unhealthy conditions and being exposed to sexual exploitation by foreigners.<sup>23</sup>

Increased vulnerability to sexual exploitation enabled through digital technology is a growing phenomenon. In Cambodia, most children in urban and town areas have access to the Internet

9 UNICEF (2017), "The State of the World's Children 2017", 174.

10 UNESCO (2011), "World Data on Education VII Ed. 2010/11", 6, accessed 5 September 2017, [http://www.ibe.unesco.org/fileadmin/user\\_upload/Publications/WDE/2010/pdf-versions/Cambodia.pdf](http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/Cambodia.pdf).

11 UNICEF (2017), "The State of the World's Children 2017", 154.

12 UNICEF Cambodia, "UNICEF in Cambodia: 2016- 2018 Country programme communication package" accessed 24 July 2017, [https://www.unicef.org/cambodia/results\\_for\\_children\\_25260.html](https://www.unicef.org/cambodia/results_for_children_25260.html).

13 Government of Cambodia (1997), "Labour Law", Article 177, accessed 5 September 2017, <http://www.ilo.org/dyn/travail/docs/701/Labour%20Law.pdf>.

14 There is no precise national definition of light work in the Cambodian Law. Light work is therefore calculated on the basis of the definition of light work used in ILO/IPEC global estimates, i.e. the market work of children aged 12-14 that is non-hazardous and for less than 14 hours per week. See. International Labour Organisation (2008), "Defining child labour: A review of the definitions of child labour in policy research", 20, accessed 5 September 2017, [http://ilo.org/ipec/Informationresources/WCMS\\_IPEC\\_PUB\\_11247/lang-en/index.htm](http://ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_11247/lang-en/index.htm).

15 *Ibid.*

16 U.S. Department of State (2016), "Cambodia 2016 Human Rights Report", 27, accessed 24 July 2017, <https://www.state.gov/documents/organization/265538.pdf>.

17 Government of Cambodia (2007), "Civil Code of Cambodia", Article 948.

18 UNICEF (2017), "The State of the World's Children 2017", 182.

19 U.S. Department of State (2016), "Cambodia 2016 Human Rights Report", 26.

20 *Ibid.*

21 UNICEF, "Cambodia Child Protection", 2, accessed 7 August 2017, [https://www.unicef.org/cambodia/2.Child\\_Protection.pdf](https://www.unicef.org/cambodia/2.Child_Protection.pdf).

22 UNICEF, "UNICEF in Cambodia 2016- 2018 country programme communication package".

23 UNICEF "Child Protection – UNICEF 2016-2018 Country Programme", accessed 7 August 2017, [https://www.unicef.org/cambodia/Country\\_kit\\_Child\\_Protection\\_Final\\_A4.pdf](https://www.unicef.org/cambodia/Country_kit_Child_Protection_Final_A4.pdf).



## THE USE OF MOBILE PHONES IN CAMBODIA



through Internet cafes or mobile phones. According to UNICEF, there are around 125 mobile phones per 100 people.<sup>24</sup> Many schoolchildren have their own Facebook accounts and use their mobile phones' Internet connection to access them.<sup>25</sup> Parents and other duty bearers are most of the time not aware of the effects that social media websites, online games or chat rooms have on the sexual beliefs and practices of children. Pornographic images are trivialised, resulting in a premature sexualisation of children's lives and contributing to learned sexual behaviours and norms to which children aspire.<sup>26</sup> Addiction to online gaming, can also carry a related risk of debt and therefore an increased vulnerability to sexual exploitation.<sup>27</sup>

Lack of education, poverty, weak child protection and welfare services, and a growing access to the Internet, are all factors that make children vulnerable to sexual exploitation. This is reinforced by strong cultural values that consider sexual abuse as taboo and that stigmatise abused children, making them feel guilty and ashamed. This is especially true with regard to the 'sale of virginity' phenomenon. The demand for virgin girls in Cambodia is a big business that thrives due to cultural myths.<sup>28</sup> Girls who have been abused, exploited or raped for their virginity will often not disclose it. Indeed, expectations of female chastity in Cambodia are revered and have been translated into a code of conduct and obedience known as *chbab srey* ('women's law').<sup>29</sup> A different problem can exist for boys. The sexual exploitation of boys is often little understood and goes ignored. Indeed, social and cultural norms assume boys to be strong, powerful and invulnerable.<sup>30</sup> Even males themselves are not always aware of their vulnerabilities due to this socially constructed conception of maleness. Yet, boys who have been sexually abused/exploited experience high levels of shame and a loss of honour, fears of others finding out and attaching homophobic labels that clearly have a profound impact on their self-esteem. Moreover, what little attention boys have received, often portrayed them as the exploiters, or willing participants, and not as victims of sexual exploitation. Therefore, the sexual exploitation of boys has been a difficult reality to recognise.<sup>31</sup>

These traditional and social norms contribute to a culture of silence surrounding sexual abuse and create an environment where child sexual exploitation can flourish, making Cambodia an appealing destination for child sex offenders.

24 UNICEF (2017), "The State of the World's Children 2017", 170.

25 World Vision (2014), "Sex, Abuse and Childhood - A study about knowledge, attitudes and practices relating to child sexual abuse, including in travel and tourism, in Cambodia, Lao PDR, Thailand and Vietnam", 53, accessed 8 August 2017, <http://www.worldvision.at/sites/default/files/Sex-Abuse-Childhood-Report.pdf>.

26 Jarret Davis and Glenn Miles (2014), "I want to be brave, a Baseline Study on the Vulnerabilities of Street-Working Boys to Sexual Exploitation in Sihanoukville, Cambodia", Phnom Penh: LOVE146, 13.

27 World Vision (2014), "Sex, Abuse and Childhood", 53.

28 Abigail Haworth (2014), "Virginity for sale: inside Cambodia's shocking trade", *The Guardian*, accessed 14 August 2017, <https://www.theguardian.com/society/2014/jul/06/virginity-for-sale-cambodia-sex-trade>.

29 *Ibid.*

30 APLE (2014), "Investigating Travelling Child Sex Offender- An Analysis of the Trends and Challenges in the field of CSE in Cambodia", 7, accessed 2<sup>nd</sup> August 2017, <http://aplecambodia.org/wp-content/uploads/2015/03/Analytical-Report-on-Investigating-Travelling-Child-Sex-Offenders-Web-Version.pdf>

31 Jarret Davis & Glenn Miles (2014), "I want to be brave : A baseline study on the vulnerabilities of street-working boys to sexual exploitation in Sihanoukville, Cambodia", Phnom Penh: LOVE146, 10, accessed 7 December 2017, <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1005&context=humtracon6>.

# The Context of the Sexual Exploitation of Children in Cambodia

## EXPLOITATION OF CHILDREN IN PROSTITUTION<sup>32</sup>

Article 2 (b) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) defines 'child prostitution' as "the use of a child in sexual activities for remuneration or any other form of consideration".<sup>33</sup>

Prostitution, although prohibited by law, is prevalent all over the country and especially in the touristic hotspots of Siem Reap, the resort town of Sihanoukville and the capital Phnom Penh.<sup>34</sup> Most of those involved in prostitution come from remote areas in the Cambodian countryside. Prostitution in Cambodia is cheap and easy to access, allowing the sex sector to rise.<sup>35</sup> The Committee on the Rights of the Child

(CRC Committee) estimated that one third of those involved in prostitution in Cambodia are of Vietnamese origin.<sup>36</sup> Children engage or are sold into prostitution, often driven by poverty. The exploitation of children in prostitution usually occurs within one of two categories: establishment-based sexual exploitation of children or street-based sexual exploitation. Establishment-based exploitation is facilitated through brothels or other establishments (karaoke bars, massage parlours, beer gardens etc.). This type of exploitation is favoured by Cambodians and other Asian nationals and mostly affects girls.<sup>37</sup> In those establishments, influential Cambodian men and members of the Asian elite are also the main clients of the 'virgin trade', ready to pay a higher price, and enjoying total impunity from a corrupt justice system.<sup>38</sup> Street-based child sexual exploitation is generally facilitated in person by the offender who approaches children directly, or through intermediaries, in public places (streets, beaches, etc.).<sup>39</sup> This type of exploitation is favoured by foreign tourists or expatriates

32 ECPAT prefers the term 'exploitation of children in prostitution' instead of 'child prostitution' in line with the recently widely adopted Terminology Guidelines. Interagency Working Group on Sexual Exploitation of Children (2016), "Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse" (hereinafter Terminology Guidelines), 29, accessed on 28 May 2017, <http://luxembourgguidelines.org/>.

33 UN General Assembly (2000), "Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography" (hereinafter OPSC), A/RES/54/263, 25 May 2000, entered into force on 18 January 2002, Article 2(b), accessed 20 February 2018, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>.

34 ECPAT, "The Commercial Sexual Exploitation of Children in East and South-East Asia", 15.

35 Katja Dombrowski (2015), "Dubious reputation", *Development and cooperation*, accessed 8 August 2017, <https://www.dandc.eu/en/article/cambodia-seen-heaven-paedophiles-and-sex-tourists>.

36 Committee on the Rights of the Child (2011), "Consideration of reports submitted by States parties under article 44 of the Convention- Concluding observations: Cambodia", UN Doc. CRC/C/KHM/CO/2-3, 3 August 2011, para. 79, accessed 25 July 2017, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=Fr&CountryID=29&ctl00\\_PlaceHolderMain\\_radResultsGridChangePage=3](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=Fr&CountryID=29&ctl00_PlaceHolderMain_radResultsGridChangePage=3).

37 Katja Dombrowski (2015), "Dubious reputation".

38 Abigail Haworth (2014), "Virginity for sale: inside Cambodia's shocking trade".

39 Paul Kay (2016), "With the paedophile-hunters on the streets of Phnom Penh", *Post Magazine*, accessed 8 August 2017, <http://www.scmp.com/magazines/post-magazine/long-reads/article/2040307/paedophile-hunters-streets-phnom-penh>; Jarret Davis and Glenn Miles (2014), "I want to be brave", 12.

and mostly affects boys.<sup>40</sup> In 2015, a local NGO estimated that around 1,200 to 1,500 children were living on the street with no relation with their families, and 15,000 to 20,000 children were working on the street but returned to their families in the evening, increasing their vulnerability to sexual exploitation in prostitution.<sup>41</sup>

The international community included in the Sustainable Development Goals (SDGs) the elimination of all forms of violence against girls in the public and private spheres, which includes different ‘types of exploitation’ such as exploitation in prostitution (target 5.2). To achieve this goal, the “proportion of girls aged 15 years and older subjected to sexual violence by persons other than an intimate partner” is to be monitored.<sup>42</sup> However, achievement of this goal is challenging because of the secretive and clandestine nature of this crime: accurate statistics on the number of child victims of exploitation in prostitution are difficult to obtain.

Moreover, male victims should not be set aside. Street-involved boys have been afforded little attention, as they are often identified as active and willing participants in sex work and not as victims of sexual exploitation.<sup>43</sup> A research with masseur boys in Phnom Penh in 2011 revealed that boys are the primary breadwinners in families and that family debt may be the major factor in keeping them on the street.<sup>44</sup> More and more younger boys are therefore being brought into prostitution due to the higher earning potential.<sup>45</sup>

## ONLINE CHILD SEXUAL EXPLOITATION (OCSE)

Online child sexual exploitation (OCSE) can include child sexual abuse/exploitation material (CSAM/CSEM),<sup>46</sup> live streaming of child sexual abuse, online grooming of children for sexual purposes, sexual extortion of children and various CSAM/CSEM-related conducts (production, distribution, downloading).<sup>47</sup> Article 2 (c) of the OPSC defines ‘child pornography’ as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”.<sup>48</sup>

Internet usage and connectivity has rapidly grown in Cambodia. Internet users represent 4.1 million or 25% of the total population<sup>49</sup> and mobile connections represent 25.8 million or around 165% of the total population.<sup>50</sup> Although the country benefits greatly from this technology, the latter has also been used for illegal activities, particularly accessing and distributing child sexual abuse materials, which result in child sexual abuse and exploitation online.

40 Katja Dombrowski (2015), “Dubious reputation”, *Development and cooperation*.

41 U.S. Department of State, “Cambodia 2016 Human Right Report”, 28, accessed 26 July 2017, <https://www.state.gov/documents/organization/265538.pdf>.

42 Sustainable Development Knowledge Platform, Target 5.2 “Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation”, accessed 27 October 2017, <https://sustainabledevelopment.un.org/sdg5>.

43 Jarret Davis and Glenn Miles (2014), “I want to be brave”, 10.

44 Glenn Miles, Heather Blanch and Jasmir Thakur (2011), “What About Boys? The sexual exploitation of boys and young men in Asia”, (report on the Third Annual Interdisciplinary Conference on Human Trafficking, University of Nebraska).

45 *Ibid.*

46 ECPAT prefers the term ‘child sexual exploitation material’ or ‘child sexual abuse material’, but in a legal context still uses ‘child pornography’ in line with the recently widely adopted Terminology Guidelines. Luxembourg Guidelines, 40.

47 ECPAT, “Issues we work on”, accessed 8 August 2017, <http://www.ecpat.org/issues-we-work-on/ending-sexual-exploitation-of-children-online/>.

48 OPSC, Article 2(c)

49 Internet World Stats (as of 31st March 2017): “Asia internet use, population data and facebook statistics”, accessed 21<sup>st</sup> August 2017, <http://www.internetworldstats.com/stats3.htm#asia>.

50 UNICEF (2016), “Child protection in the digital age- National responses to online child sexual abuse and exploitation in ASEAN Member States”, 37, accessed 14 August 2017, [https://www.unicef.org/eapro/Child\\_Protection\\_in\\_the\\_Digital\\_Age.pdf](https://www.unicef.org/eapro/Child_Protection_in_the_Digital_Age.pdf).

The Internet and mobile phones are used by child sex offenders to groom children by accessing information about them, obtaining photos and developing a relationship with them with the intent of later facilitating sexual contact. A survey by UNICEF on Cambodia in 2013 reported that almost 1 in 10 females and males in the respondent group aged between 13 and 17 have already been upset by someone speaking or writing sexual things to them. Just under half of males aged 13 to 17 reported being forced by someone to watch sex photos or videos against their will.<sup>51</sup>

In Cambodia, OCSE is often associated with the sexual exploitation of children in travel and tourism. Cases of child sex exploitation by foreigners show that offenders were often also convicted for producing and distributing child sexual exploitation material.<sup>52</sup>

Online child exploitation in Cambodia is a growing concern, but there is to date no dedicated research and few resources on the issue, making it harder to combat.<sup>53</sup>

## SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), defines ‘trafficking in persons’ as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of

exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.<sup>54</sup>

In case of child victims, Article 3 (c) of the Protocol specifies that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if it does not involve any of the means stipulated in Article 3 (a).<sup>55</sup> In other words, the Protocol recognises that children can never be willing participants to their own exploitation.

For its part, the OPSC deals with the ‘sale of children’, defined as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”.<sup>56</sup>

Both concepts are often used in conjunction and without any clear distinction. However, despite a certain overlap, ‘sale of children’ is not identical to ‘trafficking’. The ‘sale of children’ always involves some form of commercial transaction, which trafficking in children does not require, but does not necessarily include the purpose of exploiting a child (e.g. sale of children for illegal adoption). Therefore, ‘sale of children’ is not necessarily related to sexual abuse and sexual or other forms of exploitation. Lastly, the ‘sale of children’ can take place without physically moving the child out of his/her social environment whereas trafficking inherently depends on the movement of the child.<sup>57</sup>

The ASEAN Convention Against Trafficking in Persons, Especially Women and Children, signed in November 2015 and ratified by the six Member States, is using the exact same definition in its Article 2 (a).<sup>58</sup>

51 UNICEF (2013), “Findings from Cambodia’s Violence Against Children Survey 2013”, accessed 8 August 2017, [https://www.unicef.org/cambodia/UNICEF\\_VAC\\_Full\\_Report\\_English.pdf](https://www.unicef.org/cambodia/UNICEF_VAC_Full_Report_English.pdf).

52 APLE Cambodia (2014), “Investigating Travelling Child Sex Offender”, 25-27.

53 Hannah Hawkins, “New Hotline Aims to Fight Growing Online Child Sex Abuse”. *The Cambodia Daily*, 15 September 2016, <https://www.cambodiadaily.com/news/new-hotline-aims-fight-growing-online-child-sex-abuse-118031/>

54 UN General Assembly (2000), “United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” (hereinafter Palermo Protocol), Res. 55/25 of 15 November 2000, Article 3 (a), accessed 21 February 2018, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>.

55 Palermo Protocol, Article 3 (c).

56 OPSC, Article 2 (b).

57 Terminology Guidelines 29.

58 ASEAN Convention Against Trafficking in Persons, Especially Women and Children (2015), Article 2(a) accessed 21 February 2018, <http://asean.org/asean-convention-against-trafficking-in-persons-especially-women-and-children/>

CAMBODIA

# SOURCE TRANSIT AND DESTINATION COUNTRY



## FOR CHILDREN VICTIMS OF TRAFFICKING

Cambodia is a source, transit and destination country for children victims of trafficking.<sup>59</sup> Trafficking for sexual exploitation occurs primarily from Cambodia to Thailand and Vietnam, from Vietnam to Cambodia, where children are exploited in brothels, beer gardens, massage parlours, karaoke and other venues.<sup>60</sup> The trafficking of young ethnic Vietnamese girls to Phnom Penh, Sihanoukville or Siem Reap for the purpose of sexual exploitation is an increasing problem.<sup>61</sup> Children of Vietnamese origin have no access to birth registration or identity documents and are therefore not recognised as citizens,

which leads them to live in poor and segregated conditions, making them increasingly vulnerable to trafficking and exploitation.<sup>62</sup> Within the country, Cambodian and Vietnamese girls are trafficked from rural areas to Phnom Penh and other touristic spots.<sup>63</sup> Although international attention focuses more on girls, young Cambodian boys are also vulnerable to sexual trafficking and abuse.<sup>64</sup> There exist several underlying causal factors driving the trafficking of children. Cambodia's recent history of upheaval, civil wars and genocide destroyed the state structures. Cambodia's demographics reveal a young population suffering from a lack of opportunities and poverty. Children from impoverished families are often sold and are vulnerable to forced labour, including sexual exploitation. The trafficking of children in its entirety is addressed in targets 5.2,<sup>65</sup> 8.7<sup>66</sup> and 16.2<sup>67</sup> of the SDGs. According to the indicators, in order to put an end to this phenomenon, Cambodia should first gather and monitor data on the number of victims per 100,000 population, by sex, age and form of exploitation, including sexual exploitation.<sup>68</sup> Unfortunately, accurate estimates showing the extent of the problem are difficult to produce. The anti-trafficking field is saturated with participants (government bodies, international institutions, and other key stakeholders) each providing their own assessment of the problem and their estimate of the number of victims. This lack of data makes the phenomenon even more difficult to combat.<sup>69</sup>

Even though the Government of Cambodia does not fully meet the U.S. Department of State's minimum standards for the elimination of trafficking, it is said to be making significant efforts to do so. Therefore, Cambodia remains on Tier 2.<sup>70</sup>

59 U.S. Department of State (2016), "Trafficking in Persons Report", 119, accessed 22 August 2017, <https://www.state.gov/j/tip/rls/tiprpt/2016/>.

60 *Ibid.*

61 *Ibid.*

62 Committee on the Rights of the Child (2011), "Concluding observations: Cambodia", para.79.

63 Catrin Rosquist, "No Child's Play: Migration, Child Labour and Sexual Exploitation in Thailand and Cambodia", *Tourism Watch*, accessed 9 August 2017, <https://www.tourism-watch.de/en/content/no-childs-play-migration-child-labour-and-sexual-exploitation-thailand-and-cambodia>.

64 UNODC (2011), "Victim Identification Procedures in Cambodia - A Brief Study of Human Trafficking Victim Identification in the Cambodia Context", 26, accessed 9 August 2017, [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2013/NRM/FINAL\\_Draft\\_UNODC\\_report\\_Cambodia\\_NRM.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2013/NRM/FINAL_Draft_UNODC_report_Cambodia_NRM.pdf).

65 Sustainable Development Knowledge Platform, Target 5.2, accessed 27 October 2017, <https://sustainabledevelopment.un.org/sdg5>.

66 *Ibid.*, Target 8.7: "Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms".

67 *Ibid.*, Target 16.2: "End abuse, exploitation, trafficking and all forms of violence against and torture of children".

68 *Ibid.*, Indicator 16.2.2 "Number of victims of human trafficking per 100,000 population, by sex, age and form of exploitation"

69 UNODC (2011), "Victim Identification Procedures in Cambodia - A Brief Study of Human Trafficking Victim Identification in the Cambodia Context".

70 The U.S. Department of State places each country in its reports onto one of four tiers, as mandated by the Trafficking Victims Protection Act of 2000 (TVPA). The analyses are based on the extent of governments' efforts measured against the TVPA's

## SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM (SECTT)

The sexual exploitation of children in travel and tourism (SECTT) is defined as any “acts of sexual exploitation embedded in a context of travel, tourism, or both”.<sup>71</sup> The UNWTO Framework Convention on Tourism Ethics recognises that the exploitation of children conflicts with the fundamental aims of tourism and should be strongly combated with the cooperation of all the States concerned.<sup>72</sup>

Cambodia is a key destination for SECTT. This is in part due to the low costs of travel to Cambodia and the poverty that affects the local population. In particular, Special Economic and Free Trade Zones (FTZ)<sup>73</sup> have been identified as hotspots for child sexual exploitation.<sup>74</sup> Indeed, the promise of economic opportunities within these areas have made them destinations particularly attractive to children and families from poor regions throughout Cambodia. As a result, FTZ have become notorious for unsafe migration, trafficking, forced labour and child sexual exploitation among children living and working in these areas.<sup>75</sup>

SECTT in the region appears to be dominated by Asian men, and especially Chinese tourists,<sup>76</sup> even though the focus of the media and child protection efforts has long been on western tourists. According to the Global Study on Sexual Exploitation of Children in Travel and Tourism, information on offenders is often skewed due to the focus on western offenders who are ‘more visible’ and often repeat offenders.<sup>77</sup> The government and local media will tend to highlight these higher profile cases rather than the ones involving Cambodian or other Asian nationals. The same problem appears in terms of data on the number of arrests by types of profiles. The number is likely to be slanted based on law enforcement priorities and approaches (e.g. whether the focus is on sex establishments or street-based prostitution).<sup>78</sup>

Cambodia has also been a particular destination for ‘orphanage tourism’. According to the Global Study on Sexual Exploitation of Children in Travel and Tourism, increased tourist interest in volunteering during their stay has inspired some orphanages to encourage poor families to hand over their children for care, in order to offer more ‘volun-tourism’ opportunities to tourists.<sup>79</sup> According to UNICEF, the number of orphanages doubled between 2009 and 2014 in Cambodia, even though the number of orphans has decreased. In 2014, a government inspection found that 70 percent of 12,000 orphans living

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minimum standards for the elimination of human trafficking, which are generally consistent with the Palermo Protocol. Governments of countries that do not fully meet the TVPA’s minimum standards but are making significant efforts to meet those standards are ranked Tier 2. U.S. Department of State (2017), “Trafficking in Persons Report”, 113, accessed 9 August 2017, <https://www.state.gov/j/tip/rls/tiprpt/2017/index.htm>.

71 ECPAT International jointly with Defence for Children-ECPAT Netherlands (2016), “Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism” (hereinafter Global study on SECTT), accessed 21 February 2018, <http://globalstudysectt.org/global-report/>.

72 UNWTO (2017), “Consideration, approval or adoption of the UNWTO Framework Convention on Tourism Ethics”, Article 5 (3), UN Doc. A/RES/707 (XXII), accessed 5 February 2018, <http://cf.cdn.unwto.org/sites/all/files/docpdf/ares707xxiiConventionontourismethics.pdf>.

73 A special economic zone (SEZ) is a defined area within a country that is subject to different laws and regulations from those pertaining to other areas of the country. These comprehensive industrial areas provide preferential incentives to investors and offer government import-export administrative support to facilitate trade. Their creation entails significant infrastructure development, and they are designed to attract foreign investment, enhance global competitiveness and promote economic development.

74 Hawke, Angela and Raphael, Alison (2016), “Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism” Bangkok: ECPAT International, 14.

75 Jarrett Davis, Judith Fiss, and Glenn Miles (2017), “On the Border – Exploring the Perspectives & Experiences of Street-Involved Children on the Thai-Cambodian Border”, accessed 6 December 2017, <http://www.streetchildrenresources.org/resources/on-the-border/>.

76 Chea Vannak (2017), “More than 2 million Chinese tourists expected by 2020”, *Khmer Times*, accessed 12 December 2017, <http://www.khmertimeskh.com/5088631/2-million-chinese-tourists-expected-2020/>.

77 Hawke, Angela and Raphael, Alison (2016), “Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism” Bangkok: ECPAT International, 77.

78 UNODC (2014), “Protecting the Future: Improving the Response to Child Sex Offending in Southeast Asia”, 8, accessed 22 August 2017, [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2015/childhood/2014.08.28.Protecting\\_the\\_Future-Responding\\_to\\_CS0.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2015/childhood/2014.08.28.Protecting_the_Future-Responding_to_CS0.pdf).

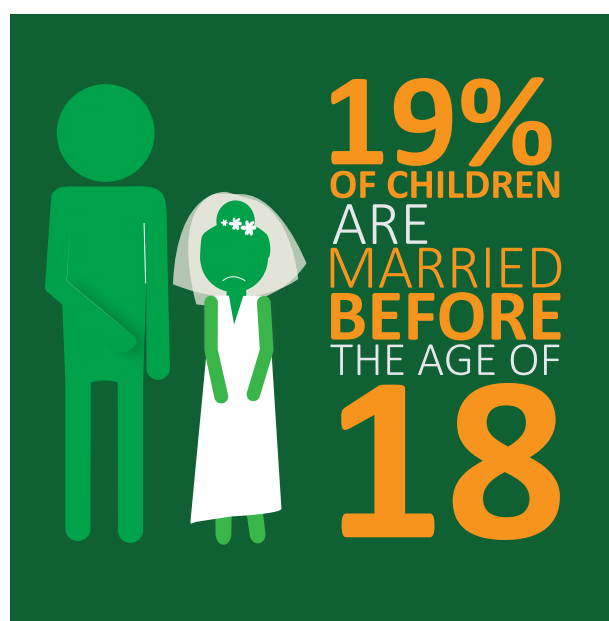
79 Hawke, Angela and Raphael, Alison (2016), “Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism” Bangkok: ECPAT International, 40.

in state and private care institutions still had parents or other relatives.<sup>80</sup> They are exploited to raise money by soliciting donations from the ‘volun-tourists’.<sup>81</sup> Moreover, most residential care centres are founded and/or supported by foreign individuals trying to improve the situation of those less fortunate than themselves. Many are owned and managed by Christian faith-based organisations.<sup>82</sup> Experience in welfare work is not an official requirement for many residential care centres.<sup>83</sup> Children in these institutions are at high risk of abuse and exploitation by unqualified staff and generally unsupervised volunteers whose qualifications, references and backgrounds are rarely checked.<sup>84</sup> Moreover, ‘pseudocare work’ is a known typology of travelling child sex offenders.<sup>85</sup>

Child marriage in Cambodia is, despite regulation, occurring on a broad scale, especially in the rural areas. Target 5.3 of the Sustainable Development Goals (SDGs) aims to “eliminate all harmful practices, such as child, early and forced marriage”.<sup>88</sup> A way to monitor progress on this goal is to measure the proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18. A report by UNICEF shows that 2% of children in Cambodia are married before the age of 15, while 19% are married before the age of 18.<sup>89</sup> A 2014 Cambodia Demographic and Health Survey identified a higher prevalence of adolescent marriages in rural or remote areas in Monduliri and Ratanakiri provinces.<sup>90</sup>

## CHILD, EARLY AND FORCED MARRIAGE (CEFM)

The Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines) define ‘child marriage’ as “a marriage in which at least one of the parties is a child. It also refers to the act of marrying off children, usually young girls, with or without their consent”.<sup>86</sup> Some forms of child marriage are related to commercial sexual exploitation of children, in cases where child marriage is linked to forced child labour, slavery and bondage, servitude or payment of a dowry.<sup>87</sup>



80 U.S. Department of State, “Cambodia 2016 Human Rights Report”, 28.

81 UNICEF Australia (2014), “UNICEF’s top four travel tips to avoid orphanage tourism”, 11 August 2014, Sydney: UNICEF Australia, accessed 22 August 2017, <https://www.unicef.org.au/blog/news-and-insights/august-2016/travel-tips-avoid-orphanage-tourism>.

82 Ministry of Social Affairs, Veterans and Youth Rehabilitation (2011), “With the Best Intentions...A Study of Attitudes Towards Residential Care in Cambodia”, accessed 7 December 2017, [https://www.unicef.org/eapro/Study\\_Attitudes\\_towards\\_RC.pdf](https://www.unicef.org/eapro/Study_Attitudes_towards_RC.pdf).

83 Global Times (2017), “Cambodia has 406 orphanages with 16,579 children: new survey”, accessed 7 December 2017, <http://www.globaltimes.cn/content/1043360.shtml>.

84 Hawke, Angela and Raphael, Alison (2016), “Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism” Bangkok: ECPAT International, 62.

85 ECPAT International (2016), “Global Study on Sexual Exploitation of Children in Travel and Tourism: Regional Report Southeast Asia 2016”, Bangkok: ECPAT International, 41.

86 Terminology Guidelines, 63.

87 ECPAT International and Plan International (2015), Thematic Report. “Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage”, accessed 16 August 2017, [http://www.ecpat.org/wp-content/uploads/legacy/Child%20Marriage\\_ENG.pdf](http://www.ecpat.org/wp-content/uploads/legacy/Child%20Marriage_ENG.pdf).

88 Sustainable Development Knowledge Platform, “Sustainable Development Goal 5: Achieve gender equality and empower all women and girls”, accessed 27 October 2017, <https://sustainabledevelopment.un.org/sdg5>.

89 UNICEF, “The State of the World’s Children 2017”, 183.

90 Chan Kanha and Ream Rin (2017), “Girls not brides : ending child marriage in Cambodia”, UNICEF Cambodia, accessed 16 August 2017, <http://unicefcambodia.blogspot.com/2017/03/by-chan-kanha-and-ream-rin-romas-is.html>.

The phenomenon once again can be linked to poverty: girls in particular are married young to reduce the economic burden on their family. Culture and traditions also underlie child marriages.<sup>91</sup> According to some ethnic cultures and social norms, young girls have more value and men tend to view girls over the age of 18 as being too old to marry.<sup>92</sup> Forced marriages can also, in some cases, be the consequence of a sexual abuse. When a girl has been sexually abused or raped, she is often forced to marry her aggressor in order to preserve the family's honour.<sup>93</sup>

Frequently, early marriages result in a situation in which a child is handed over by his/her parents to another family, where she/he is exploited to do domestic labour, as well as sexually. In these cases,

CEFM can be a form of sexual exploitation. Once married, children are often pressured to quit school and help their own families, or their spouses' families. They are exposed to abusive power dynamics, and physical, sexual and emotional abuses, especially coming from an intimate partner.<sup>94</sup>

Child marriage can also be a channel leading to other forms of sexual exploitation. Indeed, child marriage is often associated with the 'selling of girls', which results in trafficking or forcing the bride into prostitution.<sup>95</sup> In Cambodia, CEFM manifests itself in other harmful ways, such as the trafficking of child brides from Cambodia's rural areas to South Korea or China.<sup>96</sup>

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91 Joseph J. Schatz (2015), "Cambodia's Child Grooms", *Aljazeera America*, accessed 7 December 2017, <http://projects.aljazeera.com/2015/05/child-marriage/cambodia.html>.

92 *Ibid.*

93 Humanium, "Principaux problèmes rencontrés par les enfants au Cambodge" (Main issues affecting Children in Cambodia), accessed 16 August 2017, <https://www.humanium.org/fr/cambodge/>.

94 ECPAT International (2015), "Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage", 47, accessed 5 September 2017, [http://www.ecpat.org/wp-content/uploads/2016/04/Child%20Marriage\\_ENG.pdf](http://www.ecpat.org/wp-content/uploads/2016/04/Child%20Marriage_ENG.pdf).

95 ECPAT International (2015), "Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage", 36.

96 Ashley D. Jordana, "Situational Analysis on Child, Early and Forced Marriage in Vietnam, Laos, Myanmar and Cambodia", World Vision, 32, accessed 5 September 2017, [http://www.wvi.org/sites/default/files/report\\_SituationalanalysisCEFMVietnamLaosMyanmarandCambodia-FINAL.docx-2.pdf](http://www.wvi.org/sites/default/files/report_SituationalanalysisCEFMVietnamLaosMyanmarandCambodia-FINAL.docx-2.pdf).

97 Human Rights Council (2014), "Report of the Working Group on the Universal Periodic Review", UN Doc. A/HRC/26/16, accessed 24 July 2017, [https://www.upr-info.org/sites/default/files/document/cambodia/session\\_18\\_-\\_january\\_2014/recommendations\\_and\\_pledges\\_cambodia\\_2014.pdf](https://www.upr-info.org/sites/default/files/document/cambodia/session_18_-_january_2014/recommendations_and_pledges_cambodia_2014.pdf).



# International, Regional and National Commitments and Legislation on Sexual Exploitation of Children

## Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council

International Instruments	Dates of ratification/accession	
Convention on the Rights of the Child - 1989	15 October 1992	
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - 2000	21 February 2002	
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)	14 March 2006	
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organized Crime)	2 July 2007	
Regional Instruments	Date of ratification/accession	
ASEAN Convention against Trafficking in Persons, Especially Women and Children - 2015	25 January 2016	
Human Rights Bodies	Dates of submitted report	Comments
Committee on the Rights of the Child (CRC review)	20 February 2009	Next report due on 13 <sup>th</sup> May 2018
Committee on the Rights of the Child (OPSC review)	5 October 2012	Due date: 2004
Human Rights Council – Working Group on the Universal Periodic Review	5 February 2014	205 recommendations: 163 accepted 42 noted  12 are related to the sexual exploitation of children, human trafficking and worst forms of child labour. <sup>93</sup>  Next review: 32 <sup>nd</sup> session (Jan-Feb 2019)

## INTERNATIONAL AND REGIONAL COMMITMENTS

International commitments	
Commitments	Starting dates
Sustainable Development Goals (SDGs)	2016
WePROTECT - an international movement dedicated to national and global action to end the sexual exploitation of children online.	2014
Regional commitments	
Commitments	Starting dates
ASEAN	1999
<ul style="list-style-type: none"> <li>ASEAN Guidelines for the Protection of the Rights of Trafficked Children 2007</li> </ul>	
Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) - a Government-led process incorporating the six countries in the Greater Mekong Sub-region (Cambodia, China, Lao PDR, Myanmar, Thailand, and Viet Nam) in a formal alliance to combat human trafficking	2004
The Bali Process - a forum for policy dialogue, information sharing and practical cooperation to help the region address people smuggling, trafficking in persons and related transnational crimes.	2002

Cambodia addresses the Sustainable Development Goals (SDGs) in its National Strategic Development Plan (NSDP) 2014-2018 and in relevant sector plans and strategies. For example, fighting against human trafficking (target 8.7)<sup>98</sup> is prominently featured in the NSDP. However, there is no mention of forced labour, modern slavery or child labour.<sup>99</sup> The document also addresses the issues of Target 16.2<sup>100</sup> of the SDGs, as it aims to strengthen the dissemination of legislation, both at national and international levels, which relates to women and children trafficking, assistance to victims through rehabilitation, vocational training and integration back into the communities.<sup>101</sup>

At the Abu Dhabi WePROTECT Summit of 16-17 November 2015, Cambodia reaffirmed and endorsed the Statement of Action of the London WePROTECT Summit of December 2014,

and agreed to establish and develop a coordinated national response to online child sexual exploitation in accordance with the Model National Response.<sup>102</sup>

The 2007 ASEAN Guidelines for the Protection of the Rights of Trafficked Children established minimum standards for the treatment of trafficked children and were used as a basis by the Cambodian government to develop national guidelines.<sup>103</sup>

Cambodia has made efforts to improve multilateral and bilateral cooperation by signing several Memoranda of Understanding (MoUs) with neighbouring countries (Vietnam, China, Thailand, Malaysia) to cooperate in combating human trafficking and protecting victims. Moreover, Cambodia has established strong collaboration

98 Target 8.7: "Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms".

99 Government of Cambodia, "National Strategic Development Plan 2014-2018", 109, accessed 5 September 2017, [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/genericdocument/wcms\\_364549.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/genericdocument/wcms_364549.pdf).

100 Target 16.2: "End abuse, exploitation, trafficking and all forms of violence against and torture of children".

101 Government of Cambodia, "National Strategic Development Plan 2014-2018".

102 WeProtect Global Alliance (2015), "WeProtect summit - Statements of action 2015", accessed 15 August 2017, <http://www.weprotect.org/our-commitments/>.

103 ECPAT (2014), "The Commercial Sexual Exploitation of Children in East and South-East Asia- Developments, progress, challenges and recommended strategies for civil society", 35, accessed 15 August 2017, [http://www.ecpat.org/wp-content/uploads/2016/04/CSEC-Overview\\_SouthEastAsia.pdf](http://www.ecpat.org/wp-content/uploads/2016/04/CSEC-Overview_SouthEastAsia.pdf).

with law enforcement agencies from Western countries, such as the US Immigration and Custom Enforcement to counteract SECTT and the production, possession and dissemination of CSAM/CSEM. Australia and Sweden have signed formal cooperation agreements with Cambodia to address SECTT. The agreement with Sweden was signed in July 2017 for law enforcement cooperation to combat trafficking of children for sexual purposes.<sup>104</sup>

The majority of these regional cooperation mechanisms are still centred on trafficking or SECTT. As a result, other forms of SEC (e.g. CSAM/CSEM and exploitation of children in prostitution) are given less priority, even if they are increasingly prevalent in the region.<sup>105</sup>

## NATIONAL LEGISLATION

### Exploitation of children in prostitution

Cambodia's Law on Suppression of Human Trafficking and Sexual Exploitation of 2008 (TIPSE Law) provides a comprehensive definition of the exploitation of children in prostitution.<sup>106</sup> 'Child prostitution' is defined as "having sexual intercourse or other sexual conduct of all kinds between a minor and another person in exchange for anything of value".<sup>107</sup> This definition is fully compliant with article 2 of the OPSC. Moreover, the criminalisation of 'child prostitution' is far-reaching as the element of the offence relating to the "exchange for anything of value" includes the provision or promise of provision of anything of value, either to the child or an intermediary, a parent, a guardian or any other person who keeps the child under his or her supervision or control.<sup>108</sup> Penalties for the 'purchase of child prostitution' under the TIPSE Law are 2 to 5 years imprisonment

when the child is 15 years old or older, and 7 to 15 years imprisonment when the child is under 15 years old. The TIPSE Law criminalises other offences relating to exploitation in prostitution, including the procurement of prostitution, management of a prostitution establishment and the provision of premises for the exploitation of children in prostitution. The Law explicitly exempts children from criminal responsibility and punishment for prostitution related offences (e.g. solicitation).<sup>109</sup> Children exploited in prostitution are considered by law to be victims and not offenders.

The Cambodian Criminal Code (2010) also addresses the exploitation of children in prostitution and criminalises the act of 'procuring', in compliance with the TIPSE Law.<sup>110</sup> Furthermore, the simple fact of attempting to exploit children in prostitution carries the same penalty as if the offence had been committed.<sup>111</sup> However, in the Criminal Code, a minor is considered to be a person under the age of 18 in terms of criminal responsibility, but it is unclear whether this definition extends to child victims.<sup>112</sup> Moreover, the adoption of two legal instruments criminalising the exploitation of children in prostitution creates challenges when interpreting the law. The Criminal Code explicitly states that its provisions take precedence over previous legislation.<sup>113</sup> Therefore, if the provisions of the TIPSE Law and of the Criminal Code are identical, then the criminal charge from the Criminal Code supersedes the TIPSE Law as the older enactment. However, if the provisions are slightly different and can be interpreted to define different crimes, then those provisions are complementary and can co-exist. This scenario induces possible variations in charges pressed and inconsistencies in sentences, affecting the deterrent effect of the prosecutions.<sup>114</sup>

104 Government Offices of Sweden (2017), "Agreement to combat trafficking of children for sexual purposes and exploitation of women and children", accessed 21 December 2017, <http://www.government.se/articles/2015/05/agreement-to-combat-trafficking-of-children-for-sexual-purposes-and-exploitation-of-women-and-children/>.

105 ECPAT, "The Commercial Sexual Exploitation of Children in East and South-East Asia", 37.

106 Government of Cambodia (2008), "Law on Suppression of Human Trafficking and Sexual Exploitation", Royal Kram NS/RKM/0208/005, Chapter IV.

107 Cambodia, Law on Suppression of Human Trafficking and Sexual Exploitation, Article 23.

108 UNODC (2014), "Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Frameworks", 19, accessed 8 August 2017, [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2015/childhood/CAM\\_Legal\\_Report\\_2014.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2015/childhood/CAM_Legal_Report_2014.pdf).

109 Cambodia, Law on Suppression of Human Trafficking and Sexual Exploitation, Article 24.

110 Government of Cambodia (2010), "Criminal Code", Article 284, accessed 8 August 2017, [http://ngocedaw.org/wp-content/uploads/2015/05/Criminal\\_Code\\_EN-KH\\_Jan\\_2014.pdf](http://ngocedaw.org/wp-content/uploads/2015/05/Criminal_Code_EN-KH_Jan_2014.pdf) (Unofficial translation).

111 *Ibid.*, Article 294.

112 *Ibid.*, Article 38.

113 *Ibid.* Article 671.

114 UNDOC (2011), "Victim Identification Procedures in Cambodia - A Brief Study of Human Trafficking Victim Identification in the Cambodia Context", 18, accessed 8 August 2017, <https://www.smcs-risk.com/wp-content/uploads/2017/01/FINAL-Draft-UNODC-report-with-recommendations.pdf>.

## Online child sexual exploitation (OCSE)

The criminal provisions related to online child sexual exploitation are prescribed in the Law on Suppression of Human Trafficking and Sexual Exploitation. Article 40 defines ‘child pornography’ as “a visible material such as a photograph or videotape, including a material in electronic form, depicting a minor’s naked figure which excites or stimulates sexual desire”.<sup>115</sup> According to the explanatory note from the Ministry of Justice, such ‘visible material’ include photographs, drawings, texts, videos and movies in any physical or electronic form, and may also contain audio content that is pornographic in nature.<sup>116</sup> This definition is still only partially compliant with the OPSC as it fails to provide a comprehensive definition of ‘child pornography’. The law does not include in the definition images of the sexual parts of a child’s body for primarily sexual purposes, nor does it cover child sexual abuse/exploitation material (CSAM/CSEM) in the form of audio or written materials.<sup>117</sup> Moreover, the law is unclear concerning virtual child sexual abuse images.<sup>118</sup> Under the TIPSE Law, making CSAM/CSEM available by distributing, selling, leasing, displaying, projecting or presenting it in a public place is punishable with imprisonment from 2 to 5 years and a fine from 4,000,000 to 10,000,000 riels (1,000 to 2,500 USD). Possessing, transporting, importing or exporting CSAM/CSEM for the same purpose is liable to the same penalty, whereas producing CSAM/CSEM carries an offence punishable by 5 to 10 years (10 to 20 years when the material is produced in order to make it available).<sup>119</sup> However, the TIPSE Law does not contain any provision criminalising the basic offence of possessing ‘child pornography’ without

the intent to distribute.<sup>120</sup> Despite not being required by the OPSC, adoption of such a provision was highly recommended by the Committee on the Rights of the Child<sup>121</sup> and stated under the Rio Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (2008).<sup>122</sup> Likewise, article 41 of the TIPSE Law does not address the distribution, sale, lease, displaying, projection or presentation of CSAM/CSEM in private places, nor the intentional consumption, access and viewing of such materials through the use of communication and information technologies. Finally, the law does not prohibit the online solicitation of children for sexual purposes (online grooming), which creates a major legal gap due to the growing risk of OCSE in Cambodia.

The Cambodian Government is currently examining the draft of a cybercrime law, which would address not only the offense of ‘online grooming’, but also the issue of CSAM/CSEM, by criminalising the possession of CSAM/CSEM in a computer system or on a computer-data storage medium.<sup>123</sup>

Cambodia has no laws, policies or practices requiring Internet Service Providers to report cases of CSAM and provide related material to law enforcement.<sup>124</sup> However, Cambodia has an online reporting mechanism, set up by the local NGO APLE, and associated with the INHOPE Foundation. The INHOPE Foundation develops national hotlines across the world to fight against child sexual abuse material online. It prioritises countries such as Cambodia where CSAM is being facilitated, produced or distributed.<sup>125</sup> The hotline in Cambodia can receive online reports of illegal content, including child abuse materials,<sup>126</sup>

115 Cambodia, Law on Suppression of Human Trafficking and Sexual Exploitation, Article 40.

116 Kingdom of Cambodia, Ministry of Justice (2008), “Explanatory notes for the law on suppression of Human Trafficking and Sexual Exploitation”, accessed 21 December 2017, [https://www.unicef.org/cambodia/Explanatory\\_Note\\_English\\_Final\\_2.pdf](https://www.unicef.org/cambodia/Explanatory_Note_English_Final_2.pdf).

117 ECPAT International, in collaboration with ECPAT Cambodia, “Universal Periodic Review Cambodia”, UPR submission prepared for the 18<sup>th</sup> Session of the UPR in January 2014, 4, accessed 10 August 2017, <https://www.upr-info.org/en/review/Cambodia/Session-18---January-2014/Civil-society-and-other-submissions>.

118 ECPAT, “The Commercial Sexual Exploitation of Children in East and South-East Asia”, 55.

119 Law on Suppression of Human Trafficking and Sexual Exploitation, Article 41.

120 UNODC, Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Frameworks, 21.

121 Committee on the Rights of the Child (2015), “Concluding Observations on the Report Submitted by Cambodia under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography”, UN Doc. CRC/C/OPSC/KHM/CO/1, 3 August 2015, para. 25(b), accessed 24 July 2017, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPSC%2fKHM%2fCO%2f1&Lang=fr](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPSC%2fKHM%2fCO%2f1&Lang=fr).

122 ECPAT International in collaboration with ECPAT Cambodia, “Universal Periodic Review Cambodia”, 4.

123 Kingdom of Cambodia, Cybercrime Law Formulation Working Group of Council of Ministers, “Cybercrime Law – Draft V.1” (Unofficial translation), accessed 14 August 2017, [https://www.article19.org/data/files/medialibrary/37516/Draft-Law-On-CyberCrime\\_Englishv1.pdf](https://www.article19.org/data/files/medialibrary/37516/Draft-Law-On-CyberCrime_Englishv1.pdf).

124 UNICEF (2016), “Child protection in the digital age”, 27.

125 INHOPE Foundation, “Our mission”, accessed 14 August 2017, <http://inhopefoundation.org/>.

126 UNICEF (2016), “Child protection in the digital age”, 25.

and APLE refers them to the Anti Cybercrime Department for investigation.<sup>127</sup>

Moreover, to tackle OCSE and arrest offenders, Cambodia has established an Information and Technology Office under the Anti-Human Trafficking and Juvenile Protection Department and an Anti-Cyber Crime Unit under the Criminal Investigation Department.<sup>128</sup>

## Sale and trafficking of children for sexual purposes

Cambodia has adopted separate legislations specific to child trafficking (including trafficking of children for sexual purposes) and adopted legal provisions that include a comprehensive definition of child trafficking in compliance with the Palermo Protocol and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children. The TIPSE Law expressly addresses trafficking offences in 12 of its 30 articles. It prohibits all forms of trafficking and entails sentences of 7 to 15 years, and up to 20 years for aggravating circumstances, for sex and labour trafficking.<sup>129</sup> However, gaps remain in the Law. Under Article 12, the recruitment of children for the purpose of exploitation is unlawful only if it is done by means of deception, abuse of power, confinement, force, threat or any coercive means.<sup>130</sup> This is not consistent with Article 3 of the Palermo Protocol, which criminalises the recruitment of children for the purpose of exploitation, regardless of the means used. Moreover, the TIPSE Law does not include any provision insulating victims from liability for acts committed while they were being trafficked. Article 24 on the other hand, exempts minors from punishment for the offense of soliciting, defined as “willingly soliciting another in public for the purpose of prostituting himself or herself”. Prostitution implies that something of value is exchanged. However, the Penal Code’s provisions criminalise ‘soliciting’ more broadly, without the stipulation that something of value be exchanged

and without exempting minor victims of trafficking.<sup>131</sup>

The TIPSE Law also condemns the ‘sale of a person’ defined as the “unlawful delivery of the control over a person to another, or the unlawful receipt of the control over a person from another, in exchange for anything of value including any services and persons”.<sup>132</sup> Article 12 adds “the act of unlawful recruitment in this law shall mean to induce, hire or employ a person to engage in any form of exploitation with the use of deception, abuse of power, confinement, force, threat or any coercive means”. This definition is not compliant with the OPSC and the Committee on the Rights of the Child expressed its concerns in 2015 stating that an element of force or other forms of coercion, such as the use of deception, abuse of power, confinement or threat, shall not be required.<sup>133</sup>

The Cambodian Government has created several working committees and involved many existing ministries with the project of combating trafficking. Among them is the National Committee on Counter Trafficking (NCCT), an inter-ministerial coordinating body chaired by Deputy Prime Minister and Minister of Interior. There are six working groups (WG) under NCCT: Prevention WG, Protection WG, Law Enforcement WG, Justice WG, International Cooperation WG and Migration WG.<sup>134</sup> In 2015, it provided training for more than 4,000 communal and provincial officials, law enforcement officials and judicial staff on a variety of anti-human trafficking topics (legislation, investigation techniques, etc.). In 2002, Cambodia established the Department of Anti-Human Trafficking and Juvenile Protection (DAHTJP) at central and provincial levels.<sup>135</sup> Despite an abundance of initiatives, a coordinated response at the national level is still lacking, undermining the effectiveness of the government response rather than enforcing it.<sup>136</sup> Moreover, despite the development in 2009 of the “Policy and Minimum Standards for Protection of the Rights of Victims

127 Information provided by APLE Cambodia, an ECPAT’s partner in the country.

128 *Ibid.* 38.

129 *Ibid.* 114.

130 ECPAT, “The Commercial Sexual Exploitation of Children in East and South-East Asia”, 56.

131 Criminal Code, Article 298.

132 Law on Suppression of Human Trafficking and Sexual Exploitation, Article 13.

133 Committee on the Rights of the Child (2015), “Concluding Observations on the Report Submitted by Cambodia”, para. 20 (a).

134 National Committee on Counter Trafficking, accessed 21 December 2017, <http://www.ncct.gov.kh/pages/7/40>.

135 U.S. Department of Labour (2015), “Findings on the Worst forms of child Labour – Cambodia”, 4, accessed 10 August 2017, <https://www.dol.gov/sites/default/files/images/ilab/child-labor/Cambodia.pdf>.

136 UNDOC (2011), “Victim Identification Procedures in Cambodia”, 6.

of Human Trafficking”,<sup>137</sup> the system of victim response and especially the care of identified victims relies almost entirely on NGOs. As the sexual exploitation of boys has been a difficult reality to recognise, there are only a few organisations and social service providers dedicated to the needs of male victims and they are often ill-equipped and under-supported.<sup>138</sup>

Finally, in 2011 the Committee on the Rights of the Child shared its concern about the small number of prosecutions and convictions of traffickers.<sup>139</sup> It has more recently been noted that the Government still fails to make progress in holding trafficking offenders accountable because of inadequate prosecution and sentences.<sup>140</sup> The majority of children trafficking for sexual purposes is clandestine, occurring in establishments such as beer gardens, massage parlours and karaoke bars. The police do not generally pursue these more-complicated cases, focusing mostly on cases of trafficking of children occurring in brothels. This is also due to a lack of knowledge and legislations that allow the police to use undercover investigation techniques.<sup>141</sup>

### Sexual exploitation of children in travel and tourism (SECTT)

Cambodian law does not contain provisions defining or explicitly criminalising the sexual exploitation of children in travel and tourism. In its contribution to the Universal Periodic Review (UPR) in 2014, the former ECPAT Cambodia pointed to the need for special provisions on the prohibition of travel arrangements, transporting tourists, or printing or publishing information intended to combat and prevent SECTT.<sup>142</sup>

However, administrative laws can be of some relevance in the fight against SECTT.<sup>143</sup> As such, the 2009 Law on Tourism stipulates that tourists or travellers who partake in activities related to sexual human trafficking and confinement, child trafficking and sexual exploitation/prostitution, disseminations of pornographic pictures and materials, shall be “subject to a nullification of entry-visa and shall be expelled or may be banned on staying the Kingdom of Cambodia for a specified period of time not exceeding five years or permanently”.<sup>144</sup> Article 56 of the Law on Tourism also prohibits minors to enter premises of adult entertainment sites, and Article 57 requires managers of adult entertainment centres to ban and take reasonable measures to ensure that no minors are present in the premises.<sup>145</sup> This last provision has been reinforced by a 2014 Sub decree on the management of tourist entertainment centres for adults.<sup>146</sup> The Ministry of Tourism is entrusted with the power to manage and control the tourism sector.<sup>147</sup> Despite some measures taken to prevent and protect children from SECTT (training on and promotion of the Law on Tourism, plus a research study on SECTT), its mandate in fighting SECTT is restricted.<sup>148</sup> A sub-decree on the Establishment of the Tourism Police Department of the Ministry of Interior establishes the duties of the Tourism Police Department when cooperating with other competent institutions to combat SECTT, child trafficking and the dissemination of CSAM/CSEM. However, these duties are very limited and overlap with those of the Anti-Human Trafficking and Juvenile Protection Department.<sup>149</sup>

137 Government of Cambodia (2009), “Policy and Minimum Standards for Protection of the Rights of Victims of Human Trafficking” and *Prakas* 852 on “Implementation of the Policy and Minimum Standards for Protection of the Rights of Victims of Human Trafficking” (31 August 2009), accessed 10 August 2017, <http://un-act.org/publication/cambodias-policy-and-minimum-standards-for-protection-of-the-rights-of-victims-of-human-trafficking-2009/>.

138 Jarret Davis & Glenn Miles (2014), “I want to be brave”.

139 Committee on the Rights of the Child (2011), “Consideration of reports submitted by States parties”, 20(a).

140 *Ibid.*

141 U.S. Department of State (2016), “Trafficking in Persons Report”, 119, accessed 10 August 2017, <https://www.state.gov/documents/organization/258876.pdf>.

142 ECPAT International, in collaboration with ECPAT Cambodia, “Universal Periodic Review Cambodia”, 4-5.

143 UNODC (2014), “Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Frameworks”, 21.

144 Kingdom of Cambodia (2009), Law on Tourism, Articles 50 and 68, accessed 15 August 2017, <http://www.tourismcambodia.org/camtourismlaw/>.

145 Kingdom of Cambodia, “Law on Tourism”, Article 56, 57, accessed 21 February 2018 <http://www.tourismcambodia.org/camtourismlaw/index.php>

146 Kingdom of Cambodia (2009), Sub decree No 191 S.E., dated 29 May 2014, on the management of tourist entertainment centres for adults.

147 Kingdom of Cambodia, (1996), Law on the Establishment of the Ministry of Tourism, promulgated by Royal Decree No: NS/RKM/0196/15

148 Committee on the Rights of the Child (2015), “List of issues in relation to the report submitted by Cambodia under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography: replies of Cambodia to the list of issues”, UN Doc. CRC/C/OPSC/KHM/Q/1/Add.1, 6 January 2015, para. 29.

149 UNODC (2014), “Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Frameworks”, 22.

## Child, early and forced marriages (CEFM)

Cambodian law forbids child marriages, setting the minimum age for marriage without parental consent at 18, and the legal age for marriage with parental consent at 16 for both genders.<sup>150</sup> It is clear that this law is not properly enforced. The Ministry of Women's Affairs, with the support of UNICEF is currently developing the Provincial Action Plan to Prevent Child Marriage and Teenage Pregnancy for Ratanakiri province. Activities delivered will aim at reducing child marriage and promoting safe behaviours among adolescents.<sup>151</sup>

## Extraterritorial jurisdiction and extradition law

The Criminal Code provides for territorial jurisdiction over SEC related crimes committed on the Cambodian territory (Article 12), as well as for extraterritorial jurisdiction for crimes committed by Cambodian nationals abroad (Article 19, active personality principle), or when the victim is a national from Cambodia (Article 20, passive nationality principle). The Criminal Procedure Code states that "the extradition of a foreign resident who is arrested in the territory of the Kingdom of Cambodia shall be governed by provisions of international conventions and treaties ratified by the Kingdom of Cambodia".<sup>152</sup> In case there is no international convention or treaty, the provisions of the Criminal Procedure Code apply.<sup>153</sup>

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150 Kingdom of Cambodia, Civil Code, article 948.

151 Chan Kanha and Ream Rin (2017), "Girls not brides: ending child marriage in Cambodia".

152 Kingdom of Cambodia, Ministry of Justice (2007), "Criminal Procedure Code", Article 567.

153 *Ibid.*

# National Response to the Sexual Exploitation of Children

## COORDINATION AND COOPERATION

The government established different mechanisms in order to coordinate its efforts on fighting SEC. The National Committee on Counter Trafficking, addresses human trafficking, including children trafficking. At the national level, it includes six interministerial working groups, with representatives from ministries and civil society. They focus on prevention, protection, recovery law enforcement, justice, international cooperation and migration. Provincial Committees composed of government officials were established in each province. Four of them received modest funding from the government to support anti-trafficking activities.<sup>154</sup>

The Cambodian National Council for Children (CNCC) is a national coordination mechanism for the implementation, monitoring and evaluation of all policies and programmes related to Cambodian children. However, it lacks the necessary human, technical and financial resources to fulfil its role.<sup>155</sup> The CRC Committee expressed its concerns in 2015 that the coordinating functions of the CNCC and the National Committee for Counter Trafficking overlap, therefore undermining the capacity of Cambodia to effectively implement the OPSC.<sup>156</sup>

Commune Committees for Women and Children (CCWC) were established across the country

to ensure child protection at the local level, although they are often unclear on their roles and responsibilities. They lack adequate funding to fulfil their mandates and have limited capacity in designing budget plans or expertise to identify the most vulnerable children in their Commune.<sup>157</sup>

In 2001, the Ministry of Tourism established a Child Safety Committee in the Tourism Sector, wholly dedicated to the prevention and protection against SECTT. Its networks are present in 24 capitals and provinces in order to strengthen the effectiveness of its actions towards the prevention and elimination of SECTT.<sup>158</sup>

In order to strengthen efforts to combat human trafficking, including the trafficking of children, the Government of Cambodia has adopted several plans of action and programmes at a national level. The National Plan of Action (NPA) on the Suppression of Human Trafficking, Smuggling, Labour, and Sexual Exploitation (2014-2018) was launched in 2015, in line with the two previous NPAs against Trafficking and Sexual Exploitation, which covered the periods of 2000-2004 and 2011-2013. It aims to coordinate efforts to prevent and eliminate all forms of human trafficking by improving prevention efforts and criminal justice responses, and by strengthening law enforcement. It also aims to protect victims by providing appropriate services depending on age and gender.<sup>159</sup> The Government allocated funding to the National Committee for Counter Trafficking to ensure its implementation.

154 U.S. Department of Labour (2015), "Findings on the Worst forms of child Labour – Cambodia", 6.

155 World Vision (2015), "Child Protection Policy Brief 2015", 1-2, accessed 16 August 2017, [http://ticambodia.org/library/wp-content/files\\_mf/1449843471WorldVisionCambodiaChildProtectionPolicyBrief20151.pdf](http://ticambodia.org/library/wp-content/files_mf/1449843471WorldVisionCambodiaChildProtectionPolicyBrief20151.pdf).

156 Committee on the Rights of the Child (2015), "Concluding Observations on the Report Submitted by Cambodia", para.10

157 World Vision, "Child Protection Policy Brief 2015", 2.

158 Committee on the Rights of the Child (2014), "Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography – Report of State Party due in 2004: Cambodia", UN Doc. CRC/C/OPSC/KHM/1, 24 April 2014, para. 30, accessed 25 July 2017, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPSC%2fKHM%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPSC%2fKHM%2f1&Lang=en).

159 U.S. Department of Labour (2015), "Findings on the Worst forms of child Labour – Cambodia", 6.



Moreover a NPA on the Elimination of the Worst Forms of Child Labour by 2016 (2012-2017) replaced the previous NPA (2008 – 2012), and aims to adopt an integrated, cross-sectoral approach to child labour reduction.<sup>160</sup>

Finally, a National Plan of Action for Child Development 2016-2018 was launched in January 2016. In August 2017, the CNCC organised a national workshop at the Ministry of Interior to promote the implementation of the NPA for Child Development among relevant government officials and to request the establishment of a working group for children with the Ministry of Interior. The NPA was being promoted at national and sub-national levels, and the CNCC has been able to mainstream the NPA into 9 ministries and 3 provinces.<sup>161</sup>

There are many examples of cooperation between the Government and the NGO sector. For example, the Counter Trafficking in Persons Program (CTIP II) is a four-year USAID-funded project (2011-2015) to fight human trafficking and labour exploitation in Cambodia. It was implemented by Winrock International together with the government and nongovernmental partners. It aimed to improve the Government and civil society's coordination and capacity to combat all forms of human trafficking, including the trafficking of children for sexual purposes.<sup>162</sup> However, NGOs still have limited input into the development of strategies or policies to combat SEC despite their essential role and expertise in promoting and protecting children's rights.<sup>163</sup>

## PREVENTION MEASURES, AWARENESS-RAISING AND EDUCATION

The Government of Cambodia, child rights NGOs, international organisations and the private sector have developed and implemented a number of preventive actions in Cambodia, especially against SECTT and trafficking of children for sexual exploitation.

Among other governmental initiatives, is the dissemination of and training on the OPSC. The Ministry of Education, Youth and Sports has integrated the Convention on the Rights of the Child into school curricula, disseminated preventive measures and a plan against human trafficking to students at schools and universities. It also implemented a programme that monitors the safety of children at school and another one that educates communities in order to enhance their understanding, vigilance and protection of children from trafficking. Simultaneously, the Ministry of Social Affairs, Veterans and Youth Rehabilitation (MoSAVY) disseminated the Convention into the social work training curriculum.<sup>164</sup>

Training activities have been carried out on the prevention and fight against the trafficking of children: technical training for law enforcement officers about investigation, prosecution and sentencing techniques, training to capital and provincial public officials to raise awareness on the strategies to prevent and combat the trafficking of children, organisation of public forums in the capital and provinces to raise public awareness about the law.<sup>165</sup> APLE has provided all trainings with an emphasis on SEC and SECTT, focusing particularly on grooming techniques, victim identification and investigation of SEC, to about 4,000 people including children, parents, local authorities, carers, NGO staff, law enforcement, etc.<sup>166</sup> However, not all offences relating to SEC are covered by these training activities and only a limited number of trained social workers carry out preventive activities at the communal and local levels.<sup>167</sup>

Civil society has widely contributed to the efforts made to prevent SEC. The Cambodia Against Child Trafficking Coalition (Cambodia-Acts) is a network of 14 Cambodian NGOs working together to fight child trafficking, child exploitation and sexual abuse in provinces and municipalities across the country. Cambodia-Acts works within local communities and with service providers to strengthen their capacity to protect against child exploitation. This includes for example Training of Trainers on child's rights and anti-trafficking.

160 International Labour Organisation (2008), "Cambodia: National Plan of Action on the Elimination of the Worst Forms of Child Labour (NPA-WFCL) 2008-2012", accessed 10 February 2018, [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=93428&p\\_classification=04](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=93428&p_classification=04).

161 Cambodia National Council for Children, "Meeting to disseminate the National Action Plan on Child Development 2016-2018 and the establishment of Child Working Groups at the Ministry of Interior", accessed 21 December 2017, <http://www.cncc.gov.kh/news-article-3-33>.

162 Winrock, "Counter Trafficking in Persons Program Brochure", accessed 17 August 2017, <https://www.winrock.org/document/2277/>.

163 World Vision, "Child Protection Policy Brief 2015", 1.

164 Committee on the Rights of the Child, "Reports of States parties due in 2004, Cambodia", 2015, para.34.

165 *Ibid.* para. 39(b)(d).

166 Information provided by APLE Cambodia, an ECPAT's partner in the country.

167 Committee on the Rights of the Child (2015) "Concluding Observations on the Report Submitted by Cambodia", para. 14.

The network also undertakes public information campaigns to raise awareness on the risks of trafficking (12<sup>th</sup> December Campaign, Village-Safety Net Program (VSNP)) and develops collaborative community programmes to improve knowledge sharing and prevent local children from becoming victims of trafficking.<sup>168</sup>

ECPAT Cambodia<sup>169</sup> played an important role in the prevention of SEC and worked in 19 capitals and provinces. It ran programmes and activities on human trafficking prevention through awareness raising, provision of vocational training, informal education to child victims and vulnerable children.<sup>170</sup>

The NGO Committee on the Rights of the Child (NGO-CRC) is a coalition of national and international non-government organisations dedicating its efforts to the efficient and effective implementation of the CRC.<sup>171</sup> It monitors the implementation of the CRC and its Optional Protocols in Cambodia. The NGO-CRC organised several events to educate the public on the prevention against sexual trafficking.<sup>172</sup>

Friends International is a non-governmental organisation established in Cambodia since 1994 providing social services to marginalised children and their families.<sup>173</sup> It leads a variety of programmes for the empowerment and protection of children. In particular, the ChildSafe Movement was initiated in 2005 to protect children and youth from all forms of abuses, and to prevent them from engaging in dangerous behaviours. It did so through advocacy campaigns, trainings of community members and businesses. It also operates a 24/7 hotline to rescue and protect children.<sup>174</sup> The ChildSafe Alliance is a partnership programme gathering organisations (around 40 partners in Asia, Africa and South America) to

share experiences and good practices, to build joint projects, and to influence policies at local, national and regional levels.<sup>175</sup> At the local level, the ChildSafe initiative is implemented by the NGO M'Lop Tapang in Sihanoukville.<sup>176</sup> M'Lop Tapang recruits, trains and follows up on network members such as hotels, guesthouses, taxi drivers, travel agents, etc. Their child protection services otherwise focus on prevention, advocacy, victim support, recovery and reintegration.<sup>177</sup>

Finally, another major contribution to the prevention against SEC is the activity conducted by the International Labour Organisation/ International Programme on the Elimination of Child Labour (ILO/IPEC) and the Mekong Sub regional Project to Combat Trafficking in Children and Women (TICW), in collaboration with the Cambodian Government, associations of employers, the United Nations and NGOs; that aim to eliminate sex trafficking and exploitation of women and children. The project focused on women and children who are the most vulnerable to sexual and labour exploitation.<sup>178</sup>

However, despite an increasing number of initiatives, preventive measures remain inadequate and scattered. The CRC Committee expressed its concerns in 2015 that the underlying root causes and contributing factors leading to vulnerability to sexual exploitation are not sufficiently addressed.<sup>179</sup> Several manifestations of SEC are still not specifically targeted by prevention strategies, such as CSAM/CSEM, OCSE, and the exploitation of boys in prostitution. The sale of virgins is a crime that requires specific research and preventive measures.<sup>180</sup> Lastly, most awareness raising campaigns, especially addressing SECTT, have been mainly implemented in cities only, even though the phenomenon is growing in rural areas as well.<sup>181</sup>

168 Cambodia Acts, "Raising Awareness", accessed 17 August 2017, <http://www.cambodiaacts.org/en/about-us/raising-awareness/>

169 The organisation ECPAT Cambodia closed in June 2016. Currently, ECPAT International is on the process of identifying new coalition members to achieve the goal of ending sexual exploitation of children in the country.

170 Committee on the Rights of the Child, "Reports of States parties due in 2004, Cambodia", 2015, para. 54(c).

171 Human Rights Connected, "NGO Committee on the Rights of the Child", accessed 17 August 2017, <http://humanrightsconnected.org/organizations/ngo-committee-on-the-rights-of-the-child-ngocrc>.

172 Committee on the Rights of the Child, "Reports of States parties due in 2004, Cambodia", 2015, para.54(d).

173 Friends International, "About us", accessed 13 February 2018, <https://friends-international.org/in-cambodia/>.

174 Friends International, "Childsafe movement", accessed 13 February 2018, <https://friends-international.org/childsafe-movement/>

175 Friends International, "Childsafe alliance", accessed 13 February 2018, <https://friends-international.org/childsafe-alliance/>.

176 M'Lop Tapang, "Childsafe network", accessed 18 February 2018, <http://mloptapang.org/projects/childsafe-network/>.

177 *Ibid.*

178 Committee on the Rights of the Child, "Reports of States parties due in 2004, Cambodia", 2015, para. 54(f).

179 Committee on the Rights of the Child (2015) "Concluding Observations on the Report Submitted by Cambodia", para. 16(a).

180 ECPAT International, in collaboration with ECPAT Cambodia, "Universal Periodic Review Cambodia", 6.

181 *Ibid.*

## CHILD PROTECTION, ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

### Functioning of law enforcement

The first step of victim response precedes the judicial system. Victims are first referred to the police and law enforcement officials, who are also in charge of their protection. However, in practice, they are often introduced first to NGOs.<sup>182</sup> In order to improve investigation and prosecution of SEC cases, the Government of Cambodia developed several databases to gather information on sexual abuse, sexual exploitation and trafficking cases. However, these databases not only tend to focus primarily on trafficking, but are also insufficiently linked to each other and are not accessible at the provincial and municipal levels.<sup>183</sup> In 2015, the Ministry of Justice reported that the police rescued 73 children engaged in the worst forms of child labour, while the MOSAVY and Cambodian Centre for the Protection of Children's Right reported simultaneously 152 trafficking victims.<sup>184</sup> However, the total number of violations related to SEC and data on the number of prosecutions and investigations is unknown. Cambodia does not have a comprehensive system in place to collect and report data on SEC, which greatly limits its capacity to assess, monitor and prevent SEC offences.<sup>185</sup>

Law enforcement also lacks the financial resources to conduct investigations.<sup>186</sup> This greatly restrains the reach of law enforcement and only a small number of victims are identified. The low quality of investigations is due to multiple factors. First, police officers are not paid a reasonable salary, inducing a negative impact on the willingness of

the police to investigate. This is especially the case in rural areas.<sup>187</sup> Furthermore, police officers lack the knowledge, skills and equipment to conduct high-quality investigations. This is especially the case for CSAM/CSEM and OCSE-related cases.<sup>188</sup>

NGOs work side-by-side with the Cambodian police to train and share up-to-date investigative techniques on how to handle sensitive situations, such as child grooming and child abuse materials online. NGOs such as APLE Cambodia also provide a training of trainers (ToT) to maximise sustainability and disperse knowledge further.<sup>189</sup> In March 2017, a comprehensive training programme to strengthen understanding of the essentials of cybercrime investigation has been conducted by UNODC jointly with the International Centre for Missing and Exploited Children (ICMEC).<sup>190</sup> Various criminal justice officials improved their skills and knowledge of strategies to successfully investigate and prosecute cases of child sexual exploitation, including OCSE.

Finally, there is a lack of understanding of sexual abuse of males overall and often, a lack of empathy for boy victims during the investigation stage, especially from authorities (police, courts, etc.). Cambodian society, like many, considers boys to be invulnerable and able to protect themselves, and it spreads the idea that, even if boys are abused, they do not require support.<sup>191</sup> In recent years, a few specialist NGOs supporting males have emerged, and they also provide training for social welfare practitioners and law enforcement.<sup>192</sup>

In 2015, the CRC Committee expressed its deep concerns regarding the low prosecution and conviction rates.<sup>193</sup> Efforts to prosecute and convict offenders may be hindered by the widespread practice of out-of-court settlements and high levels of corruption among judicial authorities.

182 Dr. J.K. Reimer (2015), "A System Just for Children", UNICEF, 16.

183 Committee on the Rights of the Child (2015) "Concluding Observations on the Report Submitted by Cambodia", para. 6.

184 U.S. Department of Labour (2015), "Findings on the Worst forms of child Labour – Cambodia", 5.

185 *Ibid.*, Table 7, 5.

186 APLE (2014), "Investigating Travelling Child Sex Offenders", 12.

187 *Ibid.*

188 ECPAT International in collaboration with ECPAT Cambodia, "Universal Periodic Review Cambodia", 7.

189 APLE, "Our Action: Training", accessed 22 August 2017, <http://aplecambodia.org/training/>.

190 UNODC (2016), "Joint action to upgrade criminal justice protections for children in Southeast Asia", accessed 22 August 2017, <https://www.unodc.org/southeastasiaandpacific/en/cambodia/2017/03/cybercrime-combat-online-sexual-exploitation/story.html>.

191 Martina Tomassini (2014), "What about boys? Debunking myths about sexual violence against children in Cambodia", UNICEF Cambodia, accessed 6 September 2017, <http://unicefcambodia.blogspot.com/2014/10/what-about-boys-debunking-myths-about.html>

192 First step Cambodia, "Who we are", accessed 13 February 2018, <http://www.first-step-cambodia.org/>.

193 Committee on the Rights of the Child (2015) "Concluding Observations on the Report Submitted by Cambodia", para. 22.

## National complaint mechanisms

The Cambodian Justice system is evolving but is not yet fully equipped to respond to the need of children who come in contact with the law, whether as victims of SEC or as witnesses. Access to justice for all is another target of the 2030 Agenda for Sustainable Development.<sup>194</sup> It is therefore essential for Cambodia to measure the proportion of victims of sexual exploitation “who report their victimization to competent authorities or other officially recognized conflict resolution mechanisms”.<sup>195</sup>

Yet, the NGO CRC, in its contribution to the UPR in 2014, noted that there was no independent mechanism to receive and address complaints from children concerning violations of their rights in Cambodia.<sup>196</sup>

Current complaint mechanisms are not easily accessible at the community level and not available to children.<sup>197</sup> When they are accessible, child victims are often reluctant to file a complaint due to a lack of confidence in law enforcement and judicial authorities. Several reasons explain this lack of trust. First, criminalisation of victims is frequent. Prosecutors accuse child victims of wrong-doing or, in some cases involving foreign perpetrators, the child victims are accused of bringing false complaints in order to extort money from the foreigner.<sup>198</sup> Second, sentences are sometimes cut down based on circumstances (suspension of prison time, parole, royal pardon, etc.), or convicted foreign child sex offenders are sometimes not deported because of corruption and a lack of understanding on recidivism. Moreover, deportation (ban on stay penalty) is not mandatory, but at the discretion of judges.<sup>199</sup>

This lack of conviction can discourage children from speaking out about the abuse. Finally, victims remain silent and fearful of disclosing their abuse due to threats from offenders, shame or fear of ridicule or punishment.<sup>200</sup>

The long legal procedure also has a deterrent effect, since the child victims are often not willing to stay involved over the years. Moreover, in some cases, they are dependent on the offender’s financial support and do not want to file a complaint or reverse their testimony once in court.<sup>201</sup>

The police are rarely proactive in filing complaints of sexual exploitation of children. A study supported by UNICEF showed that only in very few cases children had been approached by the police to file charges. In only two cases (among 54 cases), the police, who were already investigating a case with multiple victims, took the initiative to get the children to file a complaint and testify against the offenders.<sup>202</sup>

## Child-sensitive justice

There are no specific provisions for child protection in the criminal justice process under Cambodian law.

One aspect that is covered by the TIPSE Law is the privacy of victims. Article 49 prevents the media from publishing or disseminating information revealing the victim’s identity to the public. The Law on the Press Regime prohibits the press from publishing information, photographs or drawings that could facilitate the identification of a child victim.<sup>203</sup>

Some policy documents and guidelines provide instructions for law enforcement and justice

194 Sustainable Development Knowledge Platform, Target 16.3: “Promote the rule of law at the national and international levels and ensure equal access to justice for all “

195 *Ibid.*, Indicator 16.3.1.

196 NGO Coalition on CRC (2014), “UPS Submission on Child Rights in Cambodia”, para.28, accessed 21 February 2018, [https://www.upr-info.org/sites/default/files/document/cambodia/session\\_18\\_-\\_january\\_2014/js13\\_upr18\\_khm\\_e\\_main.pdf](https://www.upr-info.org/sites/default/files/document/cambodia/session_18_-_january_2014/js13_upr18_khm_e_main.pdf).

197 Committee on the Rights of the Child (2015) “Concluding Observations on the Report Submitted by Cambodia”, para. 26(b).

198 Dr. J.K. Reimer (2015), “A System Just for Children: Voices of child victims and witnesses about their experiences in the Cambodian Criminal Justice System”, UNICEF, 45, accessed 22 August 2017, [https://www.unicef.org/cambodia/A-System-Just-for-Children\\_FINAL\\_Jan-2015.pdf](https://www.unicef.org/cambodia/A-System-Just-for-Children_FINAL_Jan-2015.pdf).

199 APLE Cambodia (2015), “Should convicted foreign child sex offenders be deported from Cambodia? An Analysis of the Current Context and Feasibility of Mandatory Deportation”, accessed 21 December 2017, <http://aplecambodia.org/wp-content/uploads/2015/03/Should-convicted-foreign-sex-offenders-be-deported.pdf>.

200 Alastair Hilton (2008), “I thought it could never happen to boys – Sexual Abuse of Boys in Cambodia, An exploratory study”, Hagar, and World Vision, accessed 6 December 2017, [http://www.first-step-cambodia.org/fileadmin/user\\_upload/SPEAKING\\_TRUTH\\_edited\\_final\\_20-3-08.pdf](http://www.first-step-cambodia.org/fileadmin/user_upload/SPEAKING_TRUTH_edited_final_20-3-08.pdf).

201 APLE (2014), “Investigation Travelling Child Sex Offenders”, 21.

202 Dr. J.K. Reimer (2015), “A System Just for Children”, UNICEF, 54.

203 Government of Cambodia (1995), “Law on the Press”, Article 15, accessed 22 August 2017, [https://www.wto.org/english/thewto\\_e/acc\\_e/khm\\_e/WTACCKHM3A3\\_LEG\\_36.pdf](https://www.wto.org/english/thewto_e/acc_e/khm_e/WTACCKHM3A3_LEG_36.pdf).

institutions to ensure that child protection measures are implemented. The Cambodian National Council for Children issued a Decision on December 2007 on Guidelines for the Protection of the Rights of Trafficked Children stating that, in all actions concerning child victims, whether undertaken by police, courts, an administrative authority or a legislative body, the best interest of the child shall be the primary consideration.<sup>204</sup> At the investigation stage, it states that the investigation must not be made known to the suspect and confidentiality of the child's identity should be maintained.<sup>205</sup> The child victim must be brought to a safe environment including referral to social services organisations.<sup>206</sup> Moreover, he/she has the right to receive all information that affects him/her and to express his/her views freely on all matters that affect him/her.<sup>207</sup> The Guidelines provide recommendations on how to conduct child sensitive interviews, how to ensure the security of child victims and witnesses, and how criminal proceedings are conducted.<sup>208</sup>

NGOs in Cambodia play a very significant role in getting some children to go to court. In the UNICEF study, the majority of children (65%) were living in an NGO shelter at the time of the court process and many families saw NGO support as vital.<sup>209</sup>

Without assistance from NGOs, many victims do not receive legal counselling during the legal process. Children have very limited time with lawyers, sometimes meeting them for the first time on the steps of the court.<sup>210</sup> Organisations such as Cambodia Defenders Project, Protection of Juvenile Justice or Legal Aid of Cambodia, offer legal services in order to provide victims with access to legal representation. The Bar Association

of Cambodia also provides legal assistance, with the funding of the Royal Cambodian Government to ensure the poor free access to legal representation.<sup>211</sup>

The Ministry of Justice issued an Instruction in the Prosecution and Punishment of Persons Who Commit Offences of Human Trafficking and Sexual Exploitation, giving recommendations on how to implement principles of international law relating to the protection of victims and juvenile justice procedures.<sup>212</sup> The Ministry issued a *prakas* in 2008, instructing on the use of screens and TV-linked testimonies for child victims and witnesses in the provincial and capital courtrooms of five courts of first instance.<sup>213</sup> It also produced instructional videos for child victims and child witnesses regarding the role of different criminal justice actors. However, this equipment is barely used to help children feel less vulnerable in the courtrooms.<sup>214</sup>

### Access to recovery and reintegration

In its concluding observations in 2015, the Committee on the Rights of the Child highlighted the absence of State-run rehabilitation and reintegration programmes in Cambodia. Moreover, the system also lacks a comprehensive Child Protection Law.<sup>215</sup>

Some initiatives and guidance exist. For example, the MoSAVY has established the Anti-Trafficking in persons and Reintegration Office (ATRO) under the supervision of the Department of Social Welfare, to accept and reintegrate victims of human trafficking from Thailand and Vietnam to return and live with their communities.<sup>216</sup> For the year

204 Cambodia National Council for Children (2007), "Decision on Guidelines for the Protection of the Rights of Trafficked Children of the Kingdom of Cambodia", Article 3.2, accessed 22 August 2017, [http://www.cncc.gov.kh/userfiles/image/download/Decision%20on%20guideline%20for%20the%20protection%20of%20the%20rights%20of%20trafficked%20children%20of%20the%20Kingdom%20of%20Cambodia\\_en.pdf](http://www.cncc.gov.kh/userfiles/image/download/Decision%20on%20guideline%20for%20the%20protection%20of%20the%20rights%20of%20trafficked%20children%20of%20the%20Kingdom%20of%20Cambodia_en.pdf) .

205 *Ibid.* Article 6.

206 *Ibid.* Article 2.1 (e).

207 Committee on the Rights of the Child, (2015) "Reports of States parties due in 2004, Cambodia", para.41.

208 UNODC (2014), "Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Frameworks", 22.

209 Dr. J.K. Reimer (2015), "A System Just for Children", UNICEF, 16.

210 *Ibid.*, 16.

211 Committee on the Rights of the Child, (2015) "Reports of States parties due in 2004, Cambodia", para.41

212 UNODC (2014), "Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Frameworks", 22-23.

213 Government of Cambodia (2008), "Prakas on the Use of Court Screen and TV-Linked Testimony from Child/Vulnerable Victims or Witnesses", Prakas No 62 K.C.B.R.K/08.

214 Dr. J.K. Reimer (2015), "A System Just for Children- Voices of child victims and witnesses about their experiences in the Cambodian Criminal Justice System", Hagar, 7, accessed 7 December 2017, [https://www.unicef.org/cambodia/A-System-Just-for-Children\\_FINAL\\_Jan-2015.pdf](https://www.unicef.org/cambodia/A-System-Just-for-Children_FINAL_Jan-2015.pdf); UNODC (2014), "Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Frameworks", 22-23.

215 Committee on the Rights of the Child (2015) "Concluding Observations on the Report Submitted by Cambodia", para. 30.

216 World Vision and UNIAP, "National Practitioner Forum on Reintegration of Victims of Human Trafficking", 8, accessed 22 August 2017, <http://un-act.org/publication/view/cambodia-practitioner-forum-reintegration-victims-human-trafficking/> .

2014-2018, the Ministry has launched a strategic plan to promote the fight against human trafficking and assist victims through rehabilitation and/or vocational training.<sup>217</sup> The Government also runs a 24-hour hotline platform to inform the public where children can receive assistance and be referred to support services.<sup>218</sup> Despite the lack of legislation, guidance has been provided with the adoption and implementation in 2009 of the Policy on Alternative Care for Children and two sets of Minimum Standards for Child Care (on residential care and pagoda-based care, and on family-based care and group home care). These aimed at protecting the rights and ensuring long-term physical, mental and moral development of vulnerable children, including child survivors of sexual exploitation.<sup>219</sup>

However, in its concluding observations in 2011, the CRC Committee stressed the fact that “psychosocial rehabilitation services and shelters for children of sexual abuse and exploitation are mainly concentrated in the capital and run by non-governmental organisations”.<sup>220</sup> In 2015, it reiterated its statement, adding that recovery and reintegration measures are limited to trafficking victims and do not take into account the needs of child victims of offences covered by the OPSC, owing to a lack of resources, and insufficient number of adequately trained staff.<sup>221</sup>

Moreover, efforts need to be put into increasing supporting services for male victims. Most of the focus and funding goes toward helping girl victims of sexual exploitation, leaving a major gap in the services and protection of boys. Social services providers are often ill-equipped to meet the needs of boy victims of sexual exploitation and need to be trained on how to identify and help them.<sup>222</sup> However, some NGOs such as First Step Cambodia, do provide specific services and support to male victims: counselling services for boys and young men, assessments and help for families, parents

and carers, support for children and young people with harmful sexual behaviours, awareness-raising and prevention activities, etc.<sup>223</sup>

As a general rule, residential care, when possible, should only be provided on a temporary basis, and family based care should be promoted.<sup>224</sup>

Engagement with families is therefore important. NGOs such as M’Lop Tapang work together with families to ensure every child is reintegrated back into their immediate family, extended family, or family-environment foster care in their neighbourhood, every time it is possible.

## Access to compensation

In the TIPSE Law and Penal Code, the penalties for a SEC offence are often stated in terms of both prison time and financial compensation for the victim. Article 46 of the TIPSE Law indicates that “a person who obtains enrichment without a legal cause knowing that the enrichment has been obtained from the act of selling/buying or exchanging a person or sexual exploitation shall be liable for restitution of the whole unjust enrichment along with accrued interest”. Therefore, a child victim can claim damages in addition to the restitution of such unjust enrichment. However, there is no legal way to enforce payment, and therefore, no guarantee that the offender will indeed pay.<sup>225</sup> In the 2014 UNICEF study, only one of the 54 research respondents said that he/she had received a portion of the officially awarded compensation from the offender. None of the other victims had received any compensation money.<sup>226</sup>

The Criminal Procedure Code stipulates physical imprisonment as a form of compensation and damages, but only at the civil party’s request, after proof that he/she has used all means of enforcement provided in the law (e.g. seizing

217 Ministry of Social Affairs, Veteran and Youth Rehabilitation, “MoSVY Strategic Plan 2014-2018”, accessed 22 August 2017, <http://www.mosvy.gov.kh/public/admin/public/upload/files/News%202014/SP%202014-2018/MoSVY-Strategic%20Plan%202014-2018-English%20Version.pdf>.

218 ECPAT, “The Commercial Sexual Exploitation of Children in East and South-East Asia”, 62.

219 Child Frontiers (2014), “National Child Protection Systems in the East Asia and Pacific Region: A Review and Analysis of Mappings and Assessments”, 21, accessed 17 August 2017, [https://www.unicef.org/eapro/Child\\_Protection\\_Systems\\_Mapping.pdf](https://www.unicef.org/eapro/Child_Protection_Systems_Mapping.pdf).

220 Committee on the Rights of the Child (2011), “Consideration of reports submitted by States parties under article 44 of the Convention- Concluding observations: Cambodia”, para. 71(c).

221 Committee on the Rights of the Child (2015) “Concluding Observations on the Report Submitted by Cambodia”, para. 30.

222 Jarret Davis and Glenn Miles (2014), “I want to be brave”, 10.

223 First Step Cambodia, “Social Work and Support Services”, accessed 7 December 2017, <http://www.first-step-cambodia.org/en/social-work-support-services/>.

224 Better Care Network, “Residential Care”, accessed 8 December 2017, <http://www.bettercarenetwork.org/library/the-continuum-of-care/residential-care>.

225 APLE (2014), “Investigating Travelling Child Sex Offenders”, 17.

226 Dr. J.K. Reimer (2015), “A System Just for Children”, UNICEF, 92.

personal or real properties).<sup>227</sup> This procedure is therefore not adequate for children.

Cambodian Law is therefore not in compliance with the provisions of the OPSC, which state that “States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible”.<sup>228</sup>

In Cambodia, if financial compensation is awarded to the victim, the offender is not obligated to pay the money until he/she finishes the jail term.<sup>229</sup> As a result, victims have to wait sometimes for years before receiving compensation. Such a rule is, once again, not in accordance with the standards of the OPSC, which states in Article 8 (g) that State parties again, not in accordance with the standards of the shall adopt appropriate measures to protect the rights and interests of child victims, by “avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims”.

Finally, another important issue in this area is the common practice of ‘out-of-court settlements’: an offender, exploiting the child’s needs and the needs of his/her family, may negotiate an extra-judicial, unofficial settlement. Most of the time, the victim drops all charges against the offender and receives less financial compensation than they are entitled to by law.<sup>230</sup>

Some have argued that financial compensation should never be awarded to child victims in cases of SEC. Such compensation could ‘encourage’ parents to sell their children and claim financial compensation afterwards. Compensation management is needed to make sure that the money directly benefits the child victim and no other civil plaintiffs who might be involved in the abuse of their child.<sup>231</sup>

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227 Criminal Procedure Code, Article 533.

228 OPSC, Article 9.4.

229 APLE (2014), “Investigating Travelling Child Sex Offenders”, 17.

230 *Ibid.*, 21.

231 *Ibid.*, 17.

## Child, Victim and Survivor Participation

Despite the persistence of traditional attitudes limiting children's rights to express their views, the importance of ensuring meaningful child and youth participation has been recognised by ASEAN Member States, including Cambodia, in the Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children, adopted in 2011. ASEAN Member States agreed to foster concerted efforts to "promote and encourage child participation in the ASEAN Community building through the establishment of the ASEAN Children's Forum and other relevant programmes or activities".<sup>232</sup>

The ASEAN Children's Forum (ACF) allows children from Member States to express their views on issues affecting their lives and to advocate for children's rights. It is comprised of children nominated by ASEAN Member States. The last forum took place in Hanoi, Vietnam, on 20<sup>th</sup> June 2016 where children discussed the Anti-trafficking in children in ASEAN countries, protecting children in cyberspace, prevention of violence against children and ASEAN children with climate change.<sup>233</sup>

At the national level, the Cambodian National Council for Children, although not composed of children, is a coordinating body that provides comments to the Government on work related to child survival, development, protection, promotion of welfare and child participation in implementing action plans relating to the

implementation of the Convention on the Rights of the Child.<sup>234</sup> Since 2013, the CNCC has involved child representatives in the preparation of the annual forum for policy-makers on International Children's Day. The CNCC consulted children in the development of relevant policies, such as the 2014 Decision on Guidelines for Applying Child Participation. This document is intended to provide a basic understanding of the concept of child participation across ministries and NGOs.<sup>235</sup>

Efforts to ensure the participation of children and youth in policy-making or the monitoring of the government's efforts to uphold children's right to be protected from sexual exploitation, are also part of NGOs' initiatives.

Although not specifically focusing on SEC, Plan International Cambodia and its partners work with children's clubs and networks to establish effective monitoring mechanisms. The programme has also been collaborating with the CNCC at the national level. Since 2004, over 200 children's clubs and 120 children's councils have been created to promote and raise awareness on children's rights in schools and communities.<sup>236</sup>

M'Lop Tapang's Child Protection Team works with individual children working on beaches in Sihanoukville, to create networks of trained youth to help keep themselves safe from abuse and exploitation. This Beach Kids Network attend monthly workshops on child protection at

232 ASEAN (2010), "Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children" Ha Noi, 28 October 2010, accessed 18 August 2017, [http://asean.org/?static\\_post=ha-noi-declaration-on-the-enhancement-of-welfare-and-development-of-asean-women-and-children](http://asean.org/?static_post=ha-noi-declaration-on-the-enhancement-of-welfare-and-development-of-asean-women-and-children) .

233 Human Rights Watch, "The 4th ASEAN Children Forum in Hanoi", accessed 18 August 2017, <http://humannationalityvn.blogspot.com/2016/06/the-4th-asean-children-forum-in-hanoi.html> .

234 Committee on the Rights of the Child, (2015), "Reports of States parties due in 2004, Cambodia", para. 31a.

235 UNICEF (2016), "Child protection in the digital age", 41.

236 Plan International, "Child Protection in Cambodia", accessed 7 December 2017, <https://plan-international.org/cambodia/child-protection#>.



M’Lop Tapang. In 2016, around 95 children were members of the beach network.<sup>237</sup>

The local NGO Children and Love Association has supported children to form peer educator groups, youth coordination committees and children’s

clubs. Within these groups, children and youth can discuss protection issues affecting girls and boys. They are trained to raise awareness and take action on children’s rights, trafficking, or sexual abuse.<sup>238</sup>

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237 M’Lop Tapang, “Beach Kids Network” accessed 21 February 2018, <http://mloptapang.org/projects/beach-kids-network/>.

238 Clare Feinstein and Claire O’Kane (2009), “Children’s and Adolescents’ Participation and Protection from Sexual Abuse and Exploitation”, UNICEF Innocenti Research center, accessed 22 August 2017, [https://www.unicef-irc.org/publications/pdf/iwp\\_2009\\_09.pdf](https://www.unicef-irc.org/publications/pdf/iwp_2009_09.pdf).

# Recommendations for Action

## INTERNATIONAL AND REGIONAL LEGISLATION, COMMITMENTS AND COORDINATION TO ENDING SEC

- Accede to the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.
- Contribute to strengthening existing international police and judicial cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, to improve prevention, investigation, prosecution and punishment of trafficking and SECTT, and develop mechanisms to coordinate the implementation of such arrangements.
- Promote and develop regional cooperation mechanisms to tackle specific forms of SEC such as online child sexual exploitation and exploitation of children in prostitution, increasingly prevalent in the region.

## NATIONAL RESPONSE TO SEC'S MANIFESTATIONS

- The TIPSE Law should be amended to criminalise solicitation for sexual purposes (online grooming), mere possession of CSAM/ CSEM and knowingly accessing CSAM/ CSEM through the use of information and communication technologies. Amend article 12 to ensure that the recruitment of children for sexual exploitation is prohibited regardless of the means used. Include in the definition of 'child pornography' virtual or suggestive representations of children and child sexual abuse material in the form of audio or written materials. Include provisions specifically

prohibiting the sexual exploitation of children in travel and tourism. Develop legislation to impose reporting obligations to Internet Service Providers and private companies.

- Develop a comprehensive and reliable national online database on SEC to monitor progress of child protection, and ensure that information is continually shared with child rights organisations.
- Provide guidelines and training to law enforcement agencies to increase their knowledge and skills to better respond to SEC offences.
- Allocate adequate budgetary resources to law enforcement agencies to conduct high-quality investigations.
- Build on what already exists and enhance long-term educational and awareness-raising campaigns addressing the issues of all SEC offences, especially in rural communities. In particular, it needs to address the risks associated with the Internet by providing education on Internet safety to children.
- Raise awareness and increase services and trainings on issues related to the sexual exploitation of boys and children with disabilities.
- Develop programmes focused on reinforcing relationships and connections with families. For example, the government could help develop spaces for children to positively interact with their families and caretakers. Government and civil society need to engage with families in developing prevention programmes and in gaining support to reduce risks.

- Provide a clear mandate for the Commune Committees for Women and Children (CCWC) and the Cambodian National Council for Children (CNCC), and improve coordination between existing agencies involved in the development and implementation of child rights policies. It should invest in additional human, technical and financial resources and ensure that child protection issues are reported to the CNCC.
- Ratify the UNWTO Framework Convention on Tourism Ethics and encourage travel agents and tourism agencies to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.
- Submit a voluntary report on the SDGs stating, in particular, accurate data and progress on targets 5.2, 5.3, 8.7, 16.2, and 16.3.

## ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

- Clear child-sensitive procedures and standards should be established at all stages of the criminal and judicial process and law enforcement officials should be trained on how to use a child sensitive approach in dealing with child victims and witnesses.
- Adequate services (medical, psychological and legal supports) should be made available to all child victims of SEC offences by improving the geographical distribution of services, by increasing the numbers of trained specialists, and by raising awareness on the availability of these services.
- Develop and implement measures to guarantee that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally

responsible. A management system should be established to ensure that the compensation money directly benefits the child victim; and a fund should be created to compensate child victims, in cases where they cannot obtain compensation from the perpetrators. Existing efforts should be enhanced to tackle the practice of encouraging out-of-court settlements between perpetrators and child victims.

## CHILD, VICTIM AND SURVIVOR PARTICIPATION

- Children and young people should be systematically involved in the monitoring and local implementation of policies and programmes related to child rights, including those related to their recovery and reintegration.

## RESEARCH NEEDS AND AGENDA

- Broad research should be conducted on specific trends within the country that have not yet been extensively addressed, such as the demand for virgins, 'volun-tourism' and OCSE, to better measure the scale of the problem and develop appropriate programmes.
- The impact of masculinity assumptions on male vulnerability to sexual exploitation should be explored, especially among street children. Risk factors and specific needs and vulnerabilities that are implicit within all genders, including transgender identities, need to be assessed.
- Comprehensive research should be conducted on the sexual exploitation of minorities, including children with disabilities, special protection and prevention measures (service development, programmes etc.).



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