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Rethinking International Legal Frameworks against Child Sexual Abuse Material
Online: Challenges and Strategies for Child Rights Protection

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Abstract

Given the increasing prevalence of Child Sexual Abuse Material (CSAM) in the digital sphere, this study examines the effectiveness of the international legal frameworks of the Convention on the Rights of the Child, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the Budapest Convention on Cybercrime. Through a two-country analysis of Germany and South Korea, this research explores how these international frameworks are implemented at the national level. Furthermore, this study highlights the interdisciplinary nature of the problem by integrating legal analysis with a more psychological perspective to discuss the relevance and neglect of preventive strategies compared to the criminalisation of offenders. Findings have revealed significant legal gaps in both international and regional frameworks, especially in terms of inconsistent implementation across jurisdictions and the insufficient emphasis on preventive measures for individuals at risk of offending. This thesis argues for a more holistic international legal framework that prioritises the protection of children's rights and looks at the issue from an interdisciplinary approach that incorporates prevention strategies to prevent crimes before they occur. Expert Interviews with professionals from different areas of child rights protection provide practical insights into the challenges and opportunities in the global efforts against CSAM.

Abstrakt

Angesichts des umfassenden Problems von Kindesmissbrauchsmaterial (Child Sexual Abuse Material, CSAM) im Netz untersucht diese Studie die Wirksamkeit der internationalen Rechtsrahmen der *Convention on the Rights of the Child (CRC)*, des *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC)* sowie der *Budapest Convention on Cybercrime*. Anhand einer Zwei-Länder-Analyse von Deutschland und Südkorea wird in dieser Studie untersucht, wie diese internationalen Regelwerke auf nationaler Ebene umgesetzt werden. Darüber hinaus hebt diese Studie den interdisziplinären Charakter des Problems hervor, indem sie die rechtliche Analyse mit einer psychologischen Perspektive verknüpft, um die Relevanz und gleichzeitige Vernachlässigung präventiver Strategien im Vergleich zu der Kriminalisierung von Straftätern aufzuzeigen. Die Ergebnisse weisen auf erhebliche rechtliche Lücken sowohl im internationalen- als auch im regionalen Rechtsrahmen hin, insbesondere im Hinblick auf die uneinheitliche Umsetzung in verschiedenen Rechtsordnungen und die unzureichende Betonung präventiver Maßnahmen für Personen, die ein Risiko darstellen. Diese Arbeit spricht sich deshalb für einen robusteren internationalen Rechtsrahmen aus, der dem Schutz der Kinderrechte Vorrang einräumt und umfassendere Präventionsstrategien vorsieht, um Straftaten zu verhindern, bevor sie passieren. Experteninterviews mit Fachleuten aus verschiedenen Bereichen des Kinderschutzes bieten praktische Einblicke in die Herausforderungen und Chancen der Bemühungen gegen CSAM.

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List of Abbreviations

Abbreviation	Definition
CSAM	Child Sexual Abuse Material
CRC	Convention on the Rights of the Child
ECHR	European Convention on Human Rights
IRG	Act on International Mutual Assistance in Criminal Matters
IWF	Internet Watch Foundation
NCMEC	National Center for Missing & Exploited Children
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Cooperation and Development
OPSC	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography
PCSOA	Act on the Protection of Children and Youth against Sex Offences
SGB VIII	SGB VIII - Sozialgesetzbuch (SGB) - Achtes Buch (VIII) (Social Code, Book VIII)
StGB	Strafgesetzbuch (German Criminal Code)

Introduction

1. Background

In today's digital age, the proliferation of Child Sexual Abuse Material, also known as CSAM¹, has become a global crisis that has yet to be fully explored. Due to the rapidly changing technological landscape, the demand for CSAM, aimed at attracting those with a sexual interest in children, is leading to an ever-growing market that enables those looking to exploit minors through such illicit image or video material to do so from wherever they are, simply by using the internet.

According to the Global Threat Assessment of 2023, the *WeProtect Global Alliance* has identified an 87% increase in CSAM online since 2019. Alarmingly, the amount of self-created content by children aged 7 to 10² has risen significantly, with a substantial proportion stemming from boys. However, 93% of all CSAM content discovered in the last two years has primarily featured girls³. The assessment also revealed that 32 million reports of CSAM were reviewed in the past year alone, while a single post on the dark web attracted 1.3 million views in just 47 days. Beyond these findings, it found that nearly 39% of respondents had encountered violent and sadistic CSAM, including witnessing such abuse via live stream⁴.

These results underline the multifaceted nature and gravity of a problem, which extends beyond the dark web to easily accessible platforms, and point to a significant gap in current prevention and detection efforts. In 2022, 90% of URLs leading to CSAM were found on popular image hosting services, creating serious concerns as reports from the OECD show that many online services are lacking transparency in their efforts to combat digital CSAM⁵.

¹ Today, the term CSAM is preferred to "child pornography" as it accurately reflects the abusive nature of the content, while highlighting that children cannot consent to their exploitation. This will be further addressed in the limitations part of this thesis.

² Between 2020 to 2022

³ WeProtect Global Alliance 'Global Threat Assessment 2023 Data - WeProtect Global Alliance' (*WeProtect Global Alliance* 4 October 2023) <<https://www.weprotect.org/global-threat-assessment-23/data/>> accessed 19 February 2024.

⁴ Ibid.

⁵ Ibid.

The evolving nature of CSAM content and its accessibility, including forms like self-generated material, live-streaming, and the use of AI to create photorealistic CSAM, highlights an increasingly global challenge⁶. Addressing these threats requires a unified international approach that includes a coherent legal framework, cross-border cooperation and technological advances in detection and prevention, aimed at consistent and long-term improvement of law enforcement measures at both national and international levels to ensure child protection.

At present, the international legal framework for defining and prosecuting CSAM differs significantly from country to country, which often results in jurisdictional issues that further complicate international cooperation and prosecution. These differences in legal systems can lead to different priorities across countries, online platforms and service providers, which are challenged by their respective legal and cultural standards, sovereignty issues and the challenge of balancing privacy protection with law enforcement objectives. The evolution and implementation of a more robust international legal framework for CSAM, particularly in the digital space, must therefore prioritise children's rights and place victims at the centre of legal provisions. In addition to these legal reforms, global initiatives for prevention strategies are indispensable, from educating children and their guardians about online safety to promoting ethical digital citizenship.

Another important but often overlooked aspect is the need for prevention strategies for those who are attracted to minors. Addressing this issue from a preventative standpoint and offering support and specialised treatment to those affected can help to reduce stigma and fear of social exclusion and ultimately prevent harm to all involved. The recognition that pedophilic attraction can even affect individuals under the age of 18 highlights the need for reforms to the education system that not only protect potential victims and promote safer internet practices but also raise awareness of mental health, including the recognition and understanding of disorders such as pedophilia. This holistic approach is of key importance in protecting children and supporting those at risk of offending before they act to ensure a safer digital environment for all.

⁶ Stanford University, Stanford and California 94305, 'Investigation Finds AI Image Generation Models Trained on Child Abuse' (*cyber.fsi.stanford.edu* 20 December 2023) <<https://cyber.fsi.stanford.edu/news/investigation-finds-ai-image-generation-models-trained-child-abuse>> accessed 15 March 2024.

2. Aim and Relevance of the Study

As highlighted in the previous figures, the growing problem of CSAM requires further research and understanding. While existing international documents provide member states with a basic framework for tackling this issue, CSAM remains significantly under-researched within the area of children's rights. One of the main reasons for this could be that the topic itself requires an interdisciplinary approach, as it combines technological, psychological, social and legal aspects. While there is research on the individual areas that CSAM covers, there is a clear lack of integration and interconnectedness within these factors, which ultimately leads to a larger gap in understanding the many root causes of this issue.

As a result, society is often uncomfortable with the topic of CSAM or pedophilia in general, largely due to deep-rooted cultural and societal attitudes. However, with the rapid advancement of technology and the increasing prevalence of CSAM, more and more states, organisations, tech companies, service providers, and other interest groups are striving to find effective solutions, but success remains limited.

This thesis aims to challenge this discomfort on the topic of CSAM and examine why the current international legal frameworks are not as effective as they could potentially be. By exploring the gaps and limitations of these frameworks, this thesis aims to propose practical solutions and improvements that will contribute to more robust and effective strategies in the global fight against CSAM.

The overall aim of this study is twofold. Firstly, it aims to critically analyse how effectively states implement the international legal frameworks on CSAM, particularly focusing on the CRC, the OPSC and the Budapest Convention on Cybercrime⁷. Analysing their effectiveness through their implementation on the national level is vital to gather insights into their functioning, identify legal gaps and build an understanding of more adaptable strategies that build on much stronger international cooperation and an overall more robust international legal framework. For this to be achieved, the research will conduct a comparative analysis of South Korea and Germany. Through this comparison of a European country, with an EU-harmonised legal system, to a non-European country, with a more independent approach, the study will provide

⁷ Although the Lanzarote Convention plays an important role in safeguarding children's rights, it is not taken into account in this country analysis, as the focus is on the framework regulations applicable to both Germany and South Korea. This will be further addressed in the limitations part of this thesis.

unique insights into the different integration and enforcement of the same international laws. Understanding these differences can shed light on more effective strategies and challenges in enforcing international CSAM regulations, particularly in cases such as the "Welcome to Video" scandal, which involved global cooperation and demonstrated both the strengths and limitations of different national legal systems in combating CSAM.

Secondly, this study aims to reconsider the role of prevention in combating CSAM globally, as well as regionally. While there are wide-ranging provisions for prevention, they often lack concrete guidelines, thus leaving its members to interpret and implement them as they see fit.

International frameworks focus predominantly on the criminalisation of CSAM offences, dealing with crimes after they have been committed rather than focusing on prevention before harm has already been done. The stigma and fear of marginalisation of people sexually attracted to minors are significant barriers to accessing necessary help, a gap that is not addressed by any of the current frameworks. For the long-term effective prevention of CSAM offences, international law must shift its focus to the provision of preventive assistance that can save lives and prevent crimes before they occur. While the criminalisation of offenders is undeniably important, this thesis aims to address the delicate issue of understanding and supporting those who are attracted to minors but do not wish to cause harm.

By placing an emphasis on the importance of support and prevention measures for these individuals, this study hopes to stimulate discussion and encourage the consideration and inclusion of such strategies in future international frameworks.

3. Research Question and Hypothesis

As mentioned above, the objective of this study is to critically explore the effectiveness of the international legal frameworks of the CRC, the OPSC and the Budapest Convention on Cybercrime in relation to CSAM through the lens of national-level implementation.

Against the background and relevance of the outlined study, the following **research question** will be the centre of this work:

How Effectively does the International Legal Framework Address digital Child Sexual Abuse Material from a Child Rights Perspective, and What Challenges and Opportunities Exist for Enhancing Prevention Globally?

Based on this research question, this thesis will be guided by three **hypotheses**:

1. The current international legal framework for CSAM lacks a universal enforcement mechanism, which results in inconsistent implementation and enforcement across countries.

This hypothesis states that individual Member States have different capabilities and obligations to enforce these internationally established rules and that there is no globally coordinated enforcement or monitoring body to ensure harmonised implementation and compliance across countries.

2. The current international legal framework inadequately addresses CSAM, which results in gaps in protection and prevention efforts.

In addition to the first hypothesis, this suggests that the lack of comprehensive, universally applicable regulations for CSAM leads to inconsistent enforcement mechanisms between states. This can lead to inadequate protection efforts at the national level, resulting in significant legal loopholes that offenders can exploit.

3. The current international legal framework on CSAM prioritises criminalisation over prevention, disregarding the importance of preventative measures to address the underlying causes of CSAM.

To effectively address the global problem of CSAM, the international legal framework must prioritise preventive strategies and tackle the root causes of the problem. Early intervention is the key to preventing the emergence, spread and, above all, the abuse and harm of a child.

4. Methodology

With the overarching aim of answering the research question and testing the hypotheses discussed previously, this study was conducted in two parts to comprehensively address the challenges related to the enforcement of the international legal framework for CSAM and the need for prevention strategies. Both parts are supported by semi-structured expert interviews.

Part One: *Qualitative Comparative Legal Analysis*

The first part of the study involves a qualitative, comparative analysis of both international and national laws. This research uses primary and secondary sources to analyse some of the key international frameworks such as the Convention on the Rights of the Child, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and the Budapest Convention on Cybercrime. These will be examined alongside the relevant national legislation in Germany and South Korea.

In addition, semi-structured expert interviews with John Carr, an expert on child safety online, and Dr. Dorothea Czarnecki, an expert on child protection and child trafficking, provide further insights and additional support for the findings in chapter four. This chapter focuses on the challenges and opportunities arising from the current state and efforts to combat CSAM. This approach allows for a detailed examination of the effectiveness of these laws, identifies gaps and inconsistencies in their implementation and highlights the challenges and opportunities arising from it.

Part Two: *Interdisciplinary Psychological Approach*

The second part of the study takes an interdisciplinary approach, incorporating psychological and public-health insights to explore effective prevention strategies for those who are attracted to minors. The sixth and final chapter therefore builds on the findings of both parts of the research to provide comprehensive recommendations for a global response to CSAM.

This chapter first discusses the subject of pedophilia. By advocating a public health approach, this study aims to demonstrate the importance of proactive measures over criminalisation in combating CSAM. An evaluation of prevention measures aimed at people suffering from pedophilia, such as the ‘Kein Täter Werden’ programme in Germany will serve as an example of

best practices for other countries. For this study, a semi-structured interview was conducted by email with Dr. Klaus Beier, the head of the programme.

The aim is to understand the psychological factors of prevention and the effectiveness of support systems designed to help people before they commit such criminal acts. This approach will provide a comprehensive perspective on the challenges and possible solutions in the prevention of CSAM offences. Blending legal analyses with psychological insights, this methodology aims to provide an in-depth understanding of both the legal and human dimensions of combating CSAM. This dual approach should contribute to more effective and balanced strategies that encompass both enforcement and prevention, ultimately strengthening global efforts.

Semi- Structured Interviews

As stated previously, semi-structured expert interviews were conducted for this research. *Magaldi & Berler* describe these types of interviews as “an exploratory interview used most often in the social sciences for qualitative research purposes or to gather clinical data. While it generally follows a guide or protocol that is devised prior to the interview and is focused on a core topic to provide a general structure, the semi-structured interview also allows for discovery, with space to follow topical trajectories as the conversation unfolds.”⁸

As this definition indicates, all four conducted interviews were guided by a set of open-ended questions, which were different to each participant, depending on their field of expertise. The main objective was to gather opinion-based answers to provide greater insights into their perspective on the development and challenges on the issue of CSAM. The flexibility of the semi-structured interviews allowed for a follow-up of additional questions based on the flow of conversation. Four experts were selected for these Interviews, based on their experience in the given fields. Three of them were conducted online, via Zoom, all of which were recorded with the participant’s consent, and later transcribed for this study. One Interview was conducted through e-mail, due to time constraints.

Although consent was gathered from all participants at the start of each interview, the consent discussions were not transcribed, as they did not contain data relevant to the research questions.

⁸ Danielle Magaldi and Matthew Berler, ‘Semi-Structured Interviews’ [2020] Encyclopedia of Personality and Individual Differences 4825.

Only the discussions directly related to the research were transcribed to keep the document clear and readable. Non-essential small talk, filler words, and repetitive phrases were excluded, without altering the meaning or intent of the participants' responses. The Interview questions were carefully selected for each expert's area of expertise, in line with the chapter in which they were used. The complete set of Interview guides, documentation sheets and transcripts can be found in Appendix 1.

The participants were the following:

Prof. Dr. med. Dr. phil. Klaus M. Beier	Director of the Institute for sexology and sexual medicine at the Charité	Date: 17/07/2024 Via E-Mail
Dr. Dorothea Czarnecki	Child Protection and Anti-Human Trafficking Expert	Date: 16/01/2024 Via Zoom
John Carr	Online Safety Expert	Date: 12/07/2024 Via Zoom
Dr. Jompon Pitaksantayothin	Associate Professor of Information Technology Law	Date: 02/08/2024 Via Zoom

5. Scope, Terminology and Limitations

Given the topic and research question of this study, it is important to first discuss the term "child pornography," which is used in various national and international documents. The Committee on the CRC has recognised that terms like "child pornography" and "child prostitution" can be misleading as they imply the consent of a child. Hence, the CRC encourages signatory states and other stakeholders to substitute such terms gradually. Therefore, the term "child pornography" is only used in this study when quoting directly from relevant documents⁹. Otherwise, the more accurate term "child sexual abuse material" (hereinafter: CSAM) will be used.

⁹ Susanna Greijer and Jaap Doek, 'Explanatory Report to the Guidelines Regarding the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography' (Ecpat 2019): 13

Over the years, the field of child abuse and exploitation¹⁰ has generally expanded¹¹ with the rapid advancement of technology, which has led to CSAM existing in various forms, including content generated entirely by technology, such as AI-generated content. Although this study recognises the existence of these different types of child exploitation, it will focus exclusively on offences related to realistic online CSAM, in particular the production, distribution, possession and access of it.

However, the abuse of children, also in relation to CSAM, is never committed solely online or offline, as such offences always begin with some kind of contact initiation, which leads to an interplay between the digital and analogue world¹². In contrast, AI-generated material does not involve direct abuse or contact with a child but still contributes to the harmful demand for such material. It is critical to acknowledge and understand this interrelation to effectively tackle CSAM. In the course of this study, it is therefore important to mention that, while CSAM is often not explicitly referred to as a singular issue, but much rather in the broader sense, particularly when analysing specific initiatives, documents, campaigns or prevention measures that deal with the larger category of 'child abuse', it is inherently part of this spectrum due to its abusive nature. As a result, while this thesis makes CSAM the primary reference point, it will take the broader issue of “child abuse” into account if they are relevant and can apply to CSAM.

The study will examine both international and national regulations on CSAM. At the international level, the focus will be on the CRC, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and the Budapest Convention on Cybercrime. At the regional level, the study will examine Germany, incorporating relevant European Regulations, and South Korea, incorporating insights from an independent, non-European application of the same international standards. Although the importance of other treaties such as the Lanzarote

¹⁰ Child abuse refers to the physical, emotional or sexual harm of a child, often by a caregiver or a person in a position of trust, while child exploitation is the exploitation of a child for personal or financial gain, e.g. through forced labour or sexual exploitation.

¹¹ Referring to sexual harassment, sexual solicitation and grooming, sextortion, exploitation through prostitution, child trafficking, and child-sex tourism

¹² Dr Sabine Witting, ‘Child Sexual Abuse in the Digital Era: Rethinking Legal Frameworks and Transnational Law Enforcement Collaboration’ (11 June 2020):1-2

Convention, which originates from the Council of Europe, or the more recent Second Additional Protocol to the Budapest Convention¹³ is recognised, the three selected international treaties (CRC, OPSC and Budapest Convention) were chosen because both Germany and South Korea have a connection to these agreements, allowing for a fair comparison. While South Korea has not yet officially joined the Budapest Convention, it has been invited to join it, making it relevant to this study. As online CSAM offences are considered transnational crimes, this study examines how Germany and South Korea regulate CSAM under their national legislation and cooperate to combat the production, distribution and possession of CSAM across borders. Given the multilayered and complex nature of CSAM, which is influenced by the overlapping provisions of wider child protection laws, this study recognises that it cannot cover all efforts that might be indirectly related to CSAM.

When assessing compliance with these international documents by Germany and South Korea, both countries will be considered compliant if they fulfil at least the minimum criteria of the international frameworks. Some areas will therefore inevitably remain unexplored, so future research is encouraged to fill these gaps and further deepen understanding of this important topic.

When examining the preventive measures, especially in the sixth chapter, it should be noted that they are aimed primarily at persons with pedophilic tendencies and not at actual offenders. This needs to be emphasised, as child abuse, including the consumption, production or distribution of CSAM, is not automatically equivalent to people suffering from such a mental illness. In all of these preventative approaches, the focus is primarily on those seeking support rather than those who are involved for other reasons. At the end of the day, the world of CSAM is also led by socio-economic reasons, as one of the main causes that make children vulnerable to these types of abuse and exploitation is linked to poverty¹⁴. Therefore, not everyone who deals with CSAM can be classified as someone struggling with pedophilia.

¹³ This exclusion is due to the fact that the protocol was only recently adopted in 2022 and that Germany has signed the document but not yet ratified it.

¹⁴ Ahmed Zahid Shahab , 'Poverty, Globalization, Social Customs & South Asian Children in Prostitution' (2005) <<https://www.humiliationstudies.org/documents/AhmedAsianChildrenProstitution.pdf>> accessed 15 April 2024.

6. Outline of the Study

This thesis is divided into six chapters, including the Introduction and Conclusion, to comprehensively answer the research question: “*How Effectively does the International Legal Framework Address Digital Child Sexual Abuse Material from a Child Rights Perspective, and What Challenges and Opportunities Exist for Enhancing Prevention Globally?*”

This study outlines as follows:

Chapter 2: The International Legal Framework on CSAM

Chapter two critically examines the international frameworks of the CRC, OPSC, and Budapest Convention on Cybercrime, concentrating on the key provisions relevant to CSAM. At the end of this chapter, a foundation is established in the form of four categories that are used in the comparative analysis that follows. These categories include all overlapping provisions relevant to:

1. The criminalisation of CSAM offences,
2. Jurisdiction and law enforcement cooperation,
3. Protection and Rights of Child Victims,
4. Preventive measures and public awareness.

Chapter 3: Bridging the Gap: Translating International Frameworks into National Action: A Two-Country Analysis

Chapter three provides a two-country analysis between Germany and South Korea, drawing on both international and national law. The chapter begins with an examination of Germany's national legislation on CSAM, with a particular focus on the Criminal Code, followed by a critical excursus on two EU regulations. The extent to which Germany adheres to the four categories set out in chapter two will be assessed. Similarly, South Korea's national legislation on CSAM is examined, focusing on the key laws and the country's efforts to adapt the international framework through the lens of the four categories mentioned above.

Chapter 4: Identification and Analysis of Challenges and Opportunities

After examining how effectively Germany and South Korea implement the CRC, OPSC, and Budapest Convention, Chapter Four examines the challenges and opportunities arising from the fight against CSAM. This chapter includes insights from expert interviews with Dr. Dorothea Czarnecki, John Carr and Dr. Jompon Pitaksantayothin, who draw on their extensive experience in this area to provide insights and open up new discussions.

Chapter 5: Towards Better Prevention: Recommendations for a Global Response to Child Sexual Abuse

Beyond the legal examination of this study, the sixth chapter highlights the lack of prevention measures for people who are attracted to minors. This chapter addresses the issue of criminalisation over prevention across all legal frameworks, advocating for a public-health approach and concludes with an interview with Dr Klaus Beier, the head of the 'Kein Täter werden' prevention programme in Germany, discussing the relevance of the programme and exploring how other countries could achieve similar results.

Conclusion

Based on the most important findings obtained in the course of the study, this chapter attempts to answer the problem statement, address the research question, and conclude whether the hypotheses have been met.

Chapter Two: The International Legal Framework on CSAM

In order to assess the effectiveness of the international legal framework in combating CSAM, it is important to examine the fundamental treaties designed to address this problem. The prevalence of CSAM is not only a serious violation of children's rights but also a complex global problem that transcends borders and requires a coordinated international response.

This chapter examines the fundamental principles and provisions of key treaties to combat CSAM, including the Convention on the Rights of the Child, its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and the Budapest Convention on Cybercrime. Together they form a cornerstone of international efforts to protect children from sexual exploitation and abuse. The following will provide a comprehensive overview of the international legal framework relating to CSAM and thus lay the foundation for a more in-depth examination of the implementation of these treaties at the national level.

1. The Convention on the Rights of the Child

The CRC¹⁵ laid the foundation for the protection of children's rights globally. The treaty was adopted by the United Nations General Assembly in 1989 and entered into force on 2 September 1990. It was ratified by 196 countries¹⁶ and is the first and most important international legal instrument dedicated to the protection and welfare of children.

When the CRC was drafted, it was not anticipated how important a role the internet or digital platforms would play in terms of child sexual abuse material. As a result, it did not deal with the protection of children's rights in the digital sphere explicitly, resulting in a significant gap in its framework¹⁷.

This shortfall implies that the application of the CRC provisions for child safety online must be interpreted more broadly by its members, leading to fragmented national approaches and a higher risk to child protection efforts, as these inconsistencies in regulations can lead to a patchwork of protection standards that are difficult to enforce on a global scale. The OPSC, which is discussed in the next section, was created to address this shortcoming.

¹⁵ United Nations, 'Convention on the Rights of the Child' (1989).

¹⁶ 'United Nations Treaty Collection: Convention on the Rights of the Child' (*treaties.un.org*1989) <https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4> accessed 18 May 2024.

¹⁷ Dr Sabine Witting, 'Child Sexual Abuse in the Digital Era : Rethinking Legal Frameworks and Transnational Law Enforcement Collaboration' (11 June 2020): 126

Nonetheless, the CRC is still relevant to this analysis as it provides a comprehensive framework for the protection of children's rights in all contexts, which can be extended to various forms of online child abuse or exploitation, such as CSAM. The CRC provides a global standard for child protection laws and a framework against which national laws and policies are measured. It serves as the basis for other protocols that specifically address modern child safety issues in the digital world, such as the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography or the Budapest Convention on Cybercrime.

Guiding the interpretation and implementation of the entire CRC are four principles¹⁸, which together reinforce a child-centred approach to CSAM. These principles consist of the following Articles:

1. **Article 2:** *Non-discrimination*, which ensures that all measures taken to protect children from CSAM apply to every child without discrimination.
2. **Article 3:** *The best interest of the child*, which states that the best interests of the child shall be a primary consideration in all actions concerning them.
3. **Article 6:** *The right to life, survival, and development*, underlines the importance of ensuring children's development and well-being, highlighting the necessity of creating environments that support the growth and safety of children, minimizing the risks and impacts of abuse.
4. **Article 12:** *The respect for the views of the child*, stresses the need to consider children's perspectives and involve them in decisions affecting their lives, also in the context of protection and recovery from abuse. This principle ensures that children's voices are heard and respected.

The Convention first defines the age at which a person is considered a child, namely up to the age of eighteen (Art.1)¹⁹. Signatory states are obliged to take all necessary legislative, administrative and other measures to safeguard the rights set out in the Convention.

Of particular relevance to combating CSAM under the provisions of the CRC are Article 34 and Article 19²⁰.

¹⁸ UNICEF, 'Four Principles of the Convention on the Rights of the Child' (*Unicef.org* 24 June 2019) <<https://www.unicef.org/armenia/en/stories/four-principles-convention-rights-child>> accessed 15 May 2024.

¹⁹ United Nations, 'Convention on the Rights of the Child' (1989): Art. 1

²⁰ Ibid. Art. 34; Art. 19

Article 34 aims to protect children from all forms of sexual abuse and sexual exploitation, including sexual abuse, prostitution, and the use of pornography, as outlined in paragraphs (a), (b), and (c). It obligates State Parties to take appropriate measures to prevent the inducement, coercion, or exploitation of children in prostitution and pornography, including CSAM. This provision is closely linked to global efforts to eliminate the sexual exploitation of children both online and offline. Article 19, on the other hand, requires the protection of children from “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.”²¹ This article stresses the importance of ensuring the general well-being and safety of children.

General Comment No. 13 (2011)²² further underlines this strict stance, that absolutely no form of violence against children is acceptable, regardless of its severity or frequency. It obliges State Parties to establish clear, legal definitions of violence, including CSAM, which should ban violence in all settings, including online environments. The Committee recognises that different forms of violence often occur together and may overlap across categories.

Both boys and girls are generally exposed to all types of violence, although there is often a gender-specific aspect. For example, girls are more likely to be affected by sexual violence in the home, while boys are more prone to face violence within the criminal justice system²³. States are therefore encouraged to enact comprehensive legislation and policy measures to effectively prevent and combat all types of violence. This includes updating existing laws to cover digital forms of exploitation and developing national standards for the well-being and protection of children, as well as systematic monitoring and evaluation mechanisms.

In addition, both Article 19 and General Comment No. 13 state that sexual abuse and exploitation include causing or coercing a child to engage in unlawful or psychologically harmful sexual activity, including the use of children in commercial sexual exploitation, the production and distribution of CSAM, child prostitution, sexual slavery, trafficking, and forced marriage. Many instances of sexual victimisation do not involve physical violence but are nonetheless deeply psychological and traumatic²⁴. General Comment No. 13 argues in favour of a child-rights-based approach that protects the dignity, physical and psychological integrity of children and

²¹ United Nations, ‘Convention on the Rights of the Child’ (1989): Art. 19

²² The Committee on the Rights of the Child, ‘General Comment No. 13 (2011) the Right of the Child to Freedom from All Forms of Violence’ (2011) 1 *The International Journal of Children’s Rights*.

²³ *Ibid.*: 8

²⁴ *Ibid.* 10

their right to a safe online environment. In line with Article 12 of the CRC, the participation of children in the development, implementation and monitoring of measures to combat CSAM is therefore critical. Educational programs that inform children about their rights, the dangers of CSAM, and ways to protect themselves online should encourage children to report abuse and seek help²⁵.

Both Articles 34 and 19 of the CRC, as well as General Comment No. 13, highlight the protection of children from all forms of sexual abuse and exploitation. In addition to these essential rights, other provisions in the CRC also play a crucial role in combating CSAM.

General Comment No. 25 (2021) on children's rights in relation to the digital environment echoes these principles and provides a framework for the implementation of these rights in digital spaces²⁶. It also underlines the facilitation of violence through digital technologies, noting that the digital environment enables new forms of violence against children, such as sexual abuse and exploitation. These include live video streaming, the production and distribution of CSAM or sexual extortion for example. Crisis such as pandemics are also contributing factors that might increase the risk of harm online as children spend more time on virtual platforms²⁷. Therefore, General Comment 25 calls on states to implement legislative and administrative measures under the CRC to protect children from these new digital risks²⁸.

Under the CRC, States Parties are obliged to protect the identity of the child (Art. 8) and to improve their living conditions worldwide (Art. 27)²⁹, which is crucial in the context of CSAM, as parents are an important group in the production of child sexual abuse material³⁰. Accordingly, the state must ensure that alternative care is available for children who are temporarily or permanently unable to remain with their families or whose retention is not in their best interests (Art. 20). Furthermore, the CRC's emphasis on the creation of social programmes and

²⁵ The Committee on the Rights of the Child, 'General Comment No. 13 (2011) the Right of the Child to Freedom from All Forms of Violence' (2011) 1 *The International Journal of Children's Rights*.

²⁶ Convention on the Rights of the Child, 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (2021): 2-4

²⁷ *Ibid.* 13-14; Paragraph 80-81

²⁸ *Ibid.* 14; Paragraph 82

²⁹ United Nations, 'Convention on the Rights of the Child' (1989): Art. 8; Art. 27; Art. 20; Art. 19

³⁰ Michael Salter and To Wong, 'Parental Production of Child Sexual Abuse Material: A Critical Review' [2023] *Trauma, Violence, & Abuse*: 1

services (Art. 19) is consistent with the need for a comprehensive framework for child victims of CSAM that includes their recovery, rehabilitation and reintegration into society (Art. 39)³¹.

The CRC provides an important framework for the protection of children's rights by setting international standards for implementation at the state level. However, its adaptability to changing social and legal conditions is primarily guided by non-binding general comments. This approach leads to significant gaps in law enforcement, as member states are not legally obliged to implement these recommendations. As a result, the CRC resembles a set of guidelines rather than a coherent system and suffers from divergent implementation across different jurisdictions.

Aside from the general comments, the Concluding Observations issued by the Committee on the Rights of the Child for individual states address the adequacy of national implementation of the CRC and the OPSC. These observations contribute to the development of a common understanding of CRC standards, particularly in relation to child protection issues, such as CSAM. However, like the rest of the UN human rights system, these observations are not binding, reflecting a general weakness of the international framework, which lacks a UN Human Rights Court to issue binding decisions.

Although the Third Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure offers a mechanism for children or their representatives to bring complaints about violations of their rights before the Committee on the Rights of the Child, no CSAM-specific cases have been addressed in this procedure to date. Most of the individual complaints submitted under this protocol have concerned issues such as migration, the rights of unaccompanied minors and access to education³². While this Protocol allows CSAM cases to be dealt with in theory, the Committee's decisions are not binding, which limits its ability to effectively enforce judgements.

This raises the question of whether a more robust enforcement mechanism, such as a CRC court for binding decisions, is necessary to ensure greater accountability and compliance. Currently, the OPSC strengthens the framework with binding measures. However, states can ratify the

³¹ United Nations, 'Convention on the Rights of the Child' (1989): Art. 20; Art. 19; Art. 39

³² Defence for Children, 'Individual Communications under the Optional Protocol (OPIC): Recent Trends and Jurisprudence Highlights - Defence for Children' (*Defence for Children* 8 March 2021) <<https://defenceforchildren.org/individual-communications-under-the-optional-protocol-opic-recent-trends-and-jurisprudence-highlights/>> accessed 7 September 2024.

CRC without adopting the OPSC, further weakening the coherence of child protection standards across countries. This selective adoption undermines the full application of the child protection provisions of the CRC.

2. Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography

Serving as an extension of the CRC, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography, which was adopted in the year 2000, with an entry into force in 2002, further refines and strengthens the international legal framework to protect children from sexual exploitation and abuse, directly addressing the proliferation of CSAM. By 2024, the treaty has been ratified by 177 countries, which is nineteen fewer than the number that have ratified the CRC³³.

Article 1 mandates the prohibition of child trafficking, child prostitution, and child pornography. Followed by Article 2 which defines these three terms. Specifically, for "child pornography," Art 2(3) describes it 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."³⁴ This definition is important to set clear boundaries of what constitutes CSAM within the framework of the OPSC.

Article 3³⁵ of the OPSC focuses on the criminalisation of the perpetrators of such crimes. As CSAM offences have drastically shifted from traditional offline platforms to the online space, which categorises it as a transnational offence, the need for collaboration of transnational law enforcement has become more important than ever. Of particular relevance here is the principle of *double criminality*³⁶ that serves as a foundational requirement for extradition or mutual legal assistance between countries. For cooperation to occur under that principle, the act in question must be considered a crime in both jurisdictions involved. In the cybercrime space, particularly

³³ 'United Nations Treaty Collection: Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography' (treaties.un.org2000) <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&clang=en> accessed 18 May 2024.

³⁴ United Nations, 'Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography' (2000): Art. 1; Art.2

³⁵ Ibid. Art. 3

³⁶ Dr Sabine Witting, 'Child Sexual Abuse in the Digital Era : Rethinking Legal Frameworks and Transnational Law Enforcement Collaboration' (11 June 2020): 19

in regard to offences like CSAM, where activities often transcend national borders, the significance of aligned national legislation cannot be emphasised enough. Without consistent laws across jurisdictions, perpetrators may exploit legal disparities by seeking refuge in countries where their actions are not criminalised.

Article 3 of the OPSC establishes a legal obligation for all participatory countries to enforce and adopt laws targeting those types of crime. It also addresses a wide range of acts including the production, distribution, dissemination, import, export, offering, sale, or possession of CSAM as mentioned in Article 3(c) of the treaty. As such, it recognises the national and transnational aspects of these offences and underlines the need for a robust international and national framework given the complex nature of CSAM. Nonetheless, International treaties undergo lengthy negotiation processes and are susceptible to political influence due to the requirement of achieving consensus among participating nations during its drafting stage. As a result, any international document aimed at addressing cybercrime is often outdated by the time it is officially adopted³⁷.

However, as *Witting*³⁸ points out in her work, there is also a debate surrounding Article 3(1)(c), specifically about the absence of the criminalisation for the mere possession of CSAM. The crux of the matter lies in interpreting the phrase '*for the above purposes*,' delineating whether it pertains to the preceding list of activities or, as suggested in the CRC Committee's Guidelines, to 'sexual exploitation' specified in Article 3(1)(a)(i). Furthermore, it would only hold weight if possession '*for the above purposes*' encompassed all intents listed under Article 3(1)(a)(i), which extends beyond 'sexual exploitation' to include activities like the 'transfer of organs of the child for profit' and the 'engagement of the child in forced labour'³⁹. Consequently, this interpretation appears implausible. Notably, the CRC Committee indirectly acknowledges the lack of inclusion of the mere possession from Article 3(1)(c) by urging member states to criminalise the mere possession of CSAM in its Guidelines, although such a recommendation is only significant if the mere possession is not considered part of the binding legal standard outlined in Article 3(1)(c)⁴⁰. But, according to *Witting*⁴¹, the absence of criminalisation for mere possession of CSAM in the OPSC fails to address contemporary developments adequately, such

³⁷ Dr Sabine Witting, 'Child Sexual Abuse in the Digital Era: Rethinking Legal Frameworks and Transnational Law Enforcement Collaboration' (11 June 2020): 19

³⁸ Ibid. 19-20

³⁹ Ibid. 20

⁴⁰ Ibid. 19-20

⁴¹ Ibid. 20

as the downloading for private purposes of CSAM, without the intent for distribution. This gap in the legal framework, particularly with regard to private downloading without the intention of distribution, is also quite relevant.

Another aspect worth mentioning is that, despite the protocol entering into force in 2000, the development of the OPSC started back in 1990, along with the appointment of the first Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography. During the 1980s and 1990s, discussions took place regarding whether mere possession of CSAM should constitute a criminal offense. Presently, there seems to be a consensus favouring its criminalisation. nonetheless, due to its 1990s development, the OPSC does not address the mere possession of CSAM.⁴²

Article 8⁴³ of the OPSC emphasises the importance of safeguarding child victims or survivors. It stipulates that their best interests should be a primary concern for the criminal justice system and obliges specialised training for professionals working with them. While ensuring defendants' rights to a fair trial, the system should support child victims by adjusting procedures to accommodate their vulnerability and needs, providing appropriate services, keeping them informed, considering their views in legal proceedings, preserving their anonymity, offering necessary protection, and avoiding undue delays. Furthermore, the state must ensure safeguards for individuals and organisations assisting child victims, mandating that uncertainty about a child's age should not hinder criminal investigations.

Another important provision mentioned in the Optional Protocol is Article 9⁴⁴, in which it states the importance of preventive measures and awareness-raising as essential strategies to effectively combat CSAM. It stresses the need for preventive measures, including educational initiatives and awareness-raising campaigns, to combat the exploitation of children and the spread of CSAM, as well as the need to actively promote public awareness and participation in the public domain. By increasing public awareness, efforts can be directed towards the reduction of demand and protecting potential victims. This article calls on states to include children in this awareness-raising process. Furthermore, states are encouraged to provide child victims with social rehabilitation and access to compensation procedures.

⁴² Dr Sabine Witting, 'Child Sexual Abuse in the Digital Era: Rethinking Legal Frameworks and Transnational Law Enforcement Collaboration' (11 June 2020): 20

⁴³ United Nations, 'Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography' (2000): Art. 8

⁴⁴ Ibid. Art. 9

Especially in today's digital age, the spread of CSAM is easier than ever as the internet is borderless. This transnational nature requires a global response in the form of international cooperation. Article 10⁴⁵ requires states to engage in effective international cooperation to prevent, detect, and prosecute those involved in the sale of children, child pornography, and child prostitution, while also supporting the social rehabilitation of child victims. It encourages signatory states to address the root causes of these offences, such as poverty and underdevelopment. Effective prevention relies on the State's understanding of the scope and characteristics of the issue, underscoring the importance of monitoring by reporting States⁴⁶.

OPSC's Article 5 enhances jurisdiction and law enforcement cooperation by classifying offences related to CSAM as extraditable under both existing and new treaties. This provision allows for extradition even without treaties and mandates prosecution if extradition is refused due to the offender's nationality⁴⁷.

Recognising this ever-changing landscape of online environments, the CRC Committee advocates for its members to regularly revise laws and policies, which can be found in the General Comment 25 Section V for example, stating that "States parties should review, adopt and update national legislation in line with international human rights standards, to ensure that the digital environment is compatible with the rights set out in the Convention and the Optional Protocols thereto"⁴⁸. While international law sets a certain global standard, its effectiveness is constrained by inherent limitations. Therefore, both national legislators and the global community must respond quickly to emerging cybercrime trends to ensure legal frameworks adapt to evolving criminal activities. While national lawmakers struggle to keep pace with rapidly changing cybercrime dynamics, the unpredictable nature of cybercriminal behaviour presents an even greater challenge for international law. The constant evolution of cybercriminal tactics makes it difficult for legal systems to effectively address these newer forms of criminal activity.

⁴⁵ United Nations, 'Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography' (2000): Art. 10

⁴⁶ Ibid. Art. 10

⁴⁷ Ibid. Art. 5

⁴⁸ Convention on the Rights of the Child, 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (2021):4

3. The Budapest Convention on Cybercrime

The European Convention on Cybercrime, also known as the Budapest Convention or the Council of Europe Convention on Cybercrime⁴⁹, is the world's first internationally binding treaty focusing specifically on crimes committed in the digital space. It opened for signatures in 2001, with an entry into force in 2004. As of May 2024, 72 countries, including Germany, have ratified the document. In addition, many other countries either serve as observers to the convention, have signed it, or have been invited to formally accede by ratifying or adhering to it, such as South Korea⁵⁰. The Convention's aims are three-fold: 1) harmonising national laws connected to cybercrime; 2) supporting the investigation and prosecution of the crimes and 3) enhancing global collaboration to combat cybercrime⁵¹.

The preamble of the treaty underlines the importance of enhancing unity among the member States and collaborating with other signatories. It also further stresses the relevance of increased, rapid, and effective international cooperation in criminal matters to fight cybercrime while advocating for a balance of law enforcement objectives and fundamental human rights. Also, it reinforces the need for a common criminal policy to protect society from cyber threats, while recognising the significant changes resulting from the digitalisation, convergence and globalisation of computer networks⁵².

Directly addressing the issue of CSAM is Article 9⁵³, which urges state parties to criminalise intentional and unauthorised involvement with CSAM, including:

1. "Producing child pornography for the purpose of its distribution through a computer system";
2. "Offering or making available child pornography through a computer system";
3. "Procuring child pornography through a computer system for oneself or for another person";

⁴⁹ Council of Europe, 'Convention on Cybercrime' (2001).

⁵⁰ Council of Europe, 'Parties/Observers to the Budapest Convention and Observer Organisations to the T-CY' (*Cybercrime*) <<https://www.coe.int/en/web/cybercrime/parties-observers>>.

⁵¹ Council of Europe, 'Explanatory Report to the Convention on Cybercrime' (2001) <<https://rm.coe.int/16800cce5b>>.: 4

⁵² Council of Europe, 'Convention on Cybercrime' (2001).

⁵³ Ibid. Art. 9

4. “Possessing child pornography in a computer system or on a computer-data storage medium”.

Beyond this, paragraph 2 expands the terminology of “child pornography” to include visual depictions of “a minor engaged in sexually explicit conduct, a person appearing to be a minor engaged in sexually explicit conduct, and realistic images representing a minor engaged in sexually explicit conduct”⁵⁴. The term “minor” refers to any person under the age of 18, though parties may set a lower age limit, but not below 16 years⁵⁵.

The Parties may reserve the right not to apply certain provisions on the possession and procurement of CSAM and on depictions of persons who look like minors, according to Article 9 Paragraph 4 of the treaty. However, as *Dimoulas V and others* point out, a major weakness of Article 9 is that it does not allow state parties to criminalise the procurement and possession of CSAM in whole or in part. Such flexibility, combined with the freedom to set different age limits for the term “child” in their criminal laws, can lead to significant differences in national legislation. States that do not criminalise the same actions, which results in critical legal discrepancies, may hinder effective cross-border collaboration when it comes to CSAM⁵⁶.

Further concerns about the Convention on Cybercrime relate to the protection of fundamental rights, in particular the right to freedom of expression, the right to privacy and data protection. In regards to freedom of expression, critics⁵⁷ argue that measures aimed at combating the spread of CSAM may unintentionally restrict lawful expression. For example, in *Ashcroft v. Free Speech Coalition*, the U.S. Supreme Court expressed concerns that expanding the definition of CSAM to include digitally created images could interfere with constitutionally protected free speech⁵⁸. The Convention's provisions may not adequately address these concerns, which could lead to unintended suppression of legitimate expression.

⁵⁴ Council of Europe, ‘Convention on Cybercrime’ (2001): Art 9 (2)

⁵⁵ Ibid. Art 9 (3)

⁵⁶ Vasilis Dimoulas and others, ‘Child Pornography in a Cloud Era’ (National School of Judges 2018): 6-7

⁵⁷ Katitza Rodriguez, ‘First Draft of UN Cybercrime Convention Drops Troubling Provisions, but Dangerous and Open-Ended Cross Border Surveillance Powers Are Still on the Table’ (*Electronic Frontier Foundation* 20 July 2023) <<https://www.eff.org/deeplinks/2023/07/first-draft-un-cybercrime-treaty-drops-troubling-provisions-dangerous-and-open>> accessed 10 May 2024.

⁵⁸ Legal Information Institute, ‘ASHCROFT v. FREE SPEECH COALITION’ (*LII / Legal Information Institute* 2001) <<https://www.law.cornell.edu/supremecourt/text/00-795>> accessed 10 May 2024.

When it comes to privacy and data protection, the compliance of the Convention with established principles and standards has been questioned. While the Council of Europe has developed instruments such as the 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data⁵⁹ and the Recommendations on Privacy on the Internet⁶⁰, the Budapest Convention makes no direct reference to them, which casts doubt on the Convention's commitment to ensuring sound data protection and privacy practices. In addition, the fact that the Convention relies on different national privacy laws for interception and surveillance practices has also raised concerns⁶¹. Despite the ECHR setting common standards for the protection of individual rights across Europe, the Budapest Convention allows for significant differences in the application of safeguards in signatory states⁶².

This lack of coherence can lead to unequal protection of individual privacy rights and undermine the effectiveness of the Convention in upholding human rights standards⁶³.

Beyond that, other critical voices also argue that the Cybercrime Convention should have included common safeguards based on the principles of the ECHR to adequately protect individuals from arbitrary interference by the authorities⁶⁴. Such safeguards would provide a clear legal framework and strict limits on government powers and ensure uniform and explicit protection of citizens' rights in the Member States⁶⁵.

In terms of jurisdiction and prosecution, Articles 22⁶⁶ and 24 ensure that offences related to CSAM are covered by jurisdictional rules so that they can be extradited under both the existing and new treaties and that prosecution in one's own country is mandatory if extradition is refused

⁵⁹ Council of Europe, 'Council of Europe: Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data' (1981) 20 International Legal Materials 317.

⁶⁰ Council of Europe, 'Protection of Personal Data and Privacy' (www.coe.int) <<https://www.coe.int/en/web/portal/personal-data-protection-and-privacy>> accessed 11 May 2024.

⁶¹ Katitza Rodriguez, 'First Draft of UN Cybercrime Convention Drops Troubling Provisions, but Dangerous and Open-Ended Cross Border Surveillance Powers Are Still on the Table' (*Electronic Frontier Foundation* 20 July 2023) <<https://www.eff.org/deeplinks/2023/07/first-draft-un-cybercrime-treaty-drops-troubling-provisions-dangerous-and-open>> accessed 10 May 2024.

⁶² Human Rights Watch, 'Abuse of Cybercrime Measures Taints UN Talks' (*Human Rights Watch* 5 May 2021) <<https://www.hrw.org/news/2021/05/05/abuse-cybercrime-measures-taints-un-talks>> accessed 11 May 2024.

⁶³ Vasilis Dimoulas and others, 'Child Pornography in a Cloud Era' (National School of Judges 2018): 7

⁶⁴ Human Rights Watch, 'Abuse of Cybercrime Measures Taints UN Talks' (*Human Rights Watch* 5 May 2021) <<https://www.hrw.org/news/2021/05/05/abuse-cybercrime-measures-taints-un-talks>> accessed 11 May 2024.

⁶⁵ Vasilis Dimoulas and others, 'Child Pornography in a Cloud Era' (National School of Judges 2018): 8

⁶⁶ Council of Europe, 'Convention on Cybercrime' (2001): Art. 22; Art. 24

on the grounds of nationality. Articles 23 and 25⁶⁷ require extensive international cooperation and mutual legal assistance to facilitate effective investigation, prosecution and exchange of evidence for CSAM offences.

4. Intersecting Frameworks: Overlapping Provisions of the CRC, OPSC and the Budapest Convention on Cybercrime

This research aims to examine how the international legal frameworks of the CRC, the OPSC and the Budapest Convention on Cybercrime together provide a benchmark for combating CSAM. The OPSC expands on the CRC by introducing detailed legal obligations to combat the exploitation of children through CSAM. In addition, the Budapest Convention on Cybercrime complements these mandates by providing essential procedural and technological guidance for enforcement through the digital space. Together, these frameworks form a solid web of international laws, even if there are substantial gaps that require further harmonisation and improvement, especially regarding enforcement and emerging technologies. What has also become clear, however, are the overlapping provisions within these frameworks, which can be categorised into the following main groups, that will be used later as a framework for the country analysis:

1. Criminalisation of CSAM- Offences:

CRC Art. 34; OPSC Art. 3; Budapest Convention Art. 9

Overall, these provisions require the criminalisation of all activities related to CSAM, from production to distribution to possession, both in the physical and digital environment. Although the CRC does not explicitly mention the criminalisation of CSAM, it emphasises the obligation of member-states to protect children from all forms of sexual exploitation and abuse, which by extension includes the production, distribution and possession of CSAM.

2. Jurisdiction and Law Enforcement Cooperation:

OPSC Art. 5 and Art. 10; Budapest Convention Art. 22, Art. 23, Art. 24 and Art. 25

These provisions create a comprehensive jurisdictional framework and promote international cooperation and assistance in the investigation, prosecution and extradition of persons involved in CSAM-related offences.

⁶⁷ Council of Europe, 'Convention on Cybercrime' (2001):. Art. 23; Art.25

3. *Protection and Rights of Child Victims:*

CRC Art. 19 and Art. 39; OPSC Art. 8 and Art. 9 (3)

These provisions ensure that child victims of CSAM-related offences are recognised, protected and supported in their recovery, with a focus on their specific needs and rights throughout the judicial process and in their overall rehabilitation.

4. *Preventive Measures and Public Awareness:*

OPSC Art. 9 (1) (2); CRC Art. 19 (2)

While the Budapest Convention does not contain specific articles on the prevention of CSAM and public awareness, both Article 19(2) of the CRC and Article 9(1)(2) of the OPSC point to prevention. The CRC calls on states to establish social programmes and other preventive measures, including identification, reporting, investigation, treatment and judicial intervention, while the OPSC points to public awareness and prevention. General Comment No. 13 further elaborates on the need for comprehensive prevention strategies, including the treatment of offenders. Although gaps remain in the Budapest Convention and because of the non-binding nature of general comments, the CRC and OPSC provide a critical yet minimal framework for prevention, which, while essential, leaves room for improvement in global efforts against CSAM.

Chapter Three: Bridging the Gap: Translating International Frameworks into State Action: A Two-Country Analysis

The aim of any internationally binding instrument is to create a framework that contains obligations and rights for the participating states that they adhere to, share global values with and guide them to be part of a more organised international system. In selecting the countries for this analysis, care was taken to avoid an exclusively European-centred approach.

An effective assessment of these documents requires a fully international perspective. Therefore, South Korea and Germany, two countries with very distinct cultural, societal and geographical contexts, were chosen to analyse how the same binding norms are applied.

This section first analyses the German legislation that specifically relates to CSAM, followed by an application of the four categories established in the second chapter. As Germany is part of the European Union, two relevant regulations will be critically discussed. Subsequently, the same application to South Korea is assessed by first investigating the country's main legislation related to CSAM, followed by the country's compliance with the four categories outlined previously.

1. Germany

In 2022, the Internet Watch Foundation published a warning in which is highlighted Germany's worrying role as one of the worst hosts of CSAM within the European Union. The report also revealed a staggering increase in 2021, with Germany hosting nearly ten times more CSAM than the previous year, ranking fourth in the EU, and seventh globally⁶⁸. This concern is also reiterated in the CRC's concluding observations report of 2022, in which is echoed that Germany needs to enhance its practical implementation of child protection measures, especially when it comes to online safety⁶⁹.

⁶⁸ Internet Watch Foundation, 'Germany among Worst for Hosting Sexual Imagery of Children in the EU, IWF Warns' (www.iwf.org.uk 26 April 2023) <<https://www.iwf.org.uk/news-media/news/germany-among-worst-for-hosting-sexual-imagery-of-children-in-the-eu-iwf-warns/#:~:text=Amount%20of%20CSAM%20hosted%20in>> accessed 29 May 2024.

⁶⁹ Committee on the Rights of the Child, 'Committee on the Rights of the Concluding Observations on the Combined Fifth to Sixth Periodic Reports of Germany*' (2022) <https://unfairtobacco.org/wp-content/uploads/2022/10/CRC_Germany_Concluding-Observations_Sept2022.pdf> accessed 30 August 2024: 2

Despite Germany's efforts to combat CSAM having evolved considerably over the years, both at the national and international level, its effectiveness in enforcement mechanisms remains limited, as it ranks only tenth place in a 2022 index report⁷⁰ by Economist Impact⁷¹.

The following section analyses the country's current efforts in dealing with CSAM, through an examination of its national legal framework and law enforcement efforts. It then examines the extent to which Germany fulfils the four categories discussed in chapter two, followed by a critical excursus of Directive 2011/93/EU and the more recent draft regulation specifically targeted at combating child sexual abuse online.

1.1 German Criminal Code on CSAM: Jurisdiction and Legal Framework

In its criminal code, Germany distinguishes between “child pornography”, as mentioned in §184b, meaning every child under the age of 14 years old, and so-called “juvenile pornography”, as discussed in §184c, which refers to any person between the ages of 14 and 18. Both sections criminalise the production, possession and distribution of CSAM⁷².

Section 184b explicitly criminalises the distribution, public display, presentation, or accessibility of CSAM. It also prohibits the production, acquisition, storage, offering, advertising, promoting or attempting to import or export pornographic material involving children, as well as facilitating its use by others⁷³. If the content does not show realistic or actual acts or real children, the sentence can be between three months to five years. In serious cases, such as the commercial distribution or the involvement of gangs in the distribution of CSAM, the punishment can be higher, meaning up to ten years. Anyone who attempts to obtain possession of CSAM that constitutes realistic acts is punished with a prison sentence of one to five years.

⁷⁰ Out of the Shadows Index 2022 Report, published by Economist Impact, examined how well countries address sexual exploitation and abuse of children. It evaluated 60 countries, looking at different factors such as prevention, response, and recovery mechanisms for child victims, as well as the legal and institutional frameworks in place to protect children.

⁷¹ Economist Impact, ‘Out of the Shadows Index 2022’ (2022) <<https://cdn.outoftheshadows.global/uploads/documents/Out-of-the-Shadows-Index-2022-Global-Report.pdf>> accessed 30 August 2024: 60

⁷² Bundeskriminalamt, ‘BKA - Kinder- Und Jugendpornografie – Einschlägige Strafrechtsvorschriften’ (www.bka.de) <https://www.bka.de/DE/UnsereAufgaben/Deliktsbereiche/Kinderpornografie/Rechtsvorschriften/kinderpornografieRechtsvorschriften_node.html> accessed 29 May 2024.

⁷³ Federal Ministry of Justice, ‘German Criminal Code’ <https://sherloc.unodc.org/cld/uploads/res/document/deu/1998/german_criminal_code_html/german_criminal_code.pdf>: 89-90

Exceptions are only granted for acts that "exclusively serve the fulfilment of lawful official or professional duties."⁷⁴

Section 184c, on the other hand, is specifically targeted at juvenile pornography and criminalises acts similar to those in Section 184b, differentiating in the scope of the age, punishment and application. If the offences are committed commercially or by a gang and the content constitutes real or realistic acts, the sentence is 3 months to 5 years imprisonment. Accessing or possessing such material that depicts real acts is punishable by a prison sentence of up to two years or a fine. Acts in connection with juvenile pornographic content produced exclusively for personal use with the consent of the persons depicted are exempt from punishment. The attempt is punishable, with the exception of the attempt to make content available or to procure it for another person, as well as the attempt to possess such content⁷⁵.

It should be noted that the federal government is currently planning to adjust the minimum penalties for the distribution, acquisition and possession of CSAM. The draft bill entitled "Adjustment of the minimum penalties in Section 184b (1) sentence 1 and (3) StGB, distribution, acquisition and possession of child pornography" (20/10540) was discussed in the German Bundestag at first reading on 14 March 2024. The bill provides for a reduction in the minimum penalties for the distribution, acquisition and possession of child pornography⁷⁶.

Supporters argue that the amendment is necessary to prevent minors from being severely punished for possessing such images, as the bill underlines that many juvenile offenders do not engage with the content out of sexual arousal, but due to "typical juvenile behaviour" such as curiosity or naivety. The aim is to provide a more flexible and appropriate response to the high proportion of juvenile offenders⁷⁷. Possession and acquisition would therefore be punished with a minimum sentence of three months, distribution with at least six months imprisonment.

⁷⁴ Federal Ministry of Justice, 'German Criminal Code' <https://sherloc.unodc.org/cld/uploads/res/document/deu/1998/german_criminal_code_html/german_criminal_code.pdf>: 89-90

⁷⁵ Ibid. 89-90

⁷⁶ Deutscher Bundestag, 'Deutscher Bundestag - Strafmaß Bei Kinderpornografie Soll Angepasst Werden' (*Deutscher Bundestag* 14 March 2024) <[https://www.bundestag.de/dokumente/textarchiv/2024/kw11-de-mindeststrafen-kinderpornographie-991110#:~:text=Der%20dazu%20vorgelegte%20Gesetzentwurf%20%E2%80%9Ezur](https://www.bundestag.de/dokumente/textarchiv/2024/kw11-de-mindeststrafen-kinderpornographie-991110#:~:text=Der%20dazu%20vorgelegte%20Gesetzentwurf%20%E2%80%9Ezur>)> accessed 23 June 2024.

⁷⁷ Jeremiah Poff, 'The German Government Is Softening Its Child Pornography Laws - Washington Examiner' (*Washington Examiner* 21 May 2024) <<https://www.washingtonexaminer.com/opinion/beltway-confidential/3012171/german-government-softening-child-pornography-laws/>>.

The German Government justifies these changes with practical requirements from practice. The intention is to reclassify these offences under Paragraph 184b StGB as *misdemeanors*. Currently, these offences are classified as felonies with a minimum sentence of one year imprisonment⁷⁸.

According to national legislation, sexual offences involving children under the age of 14 are strictly prohibited. For adolescents between the ages of 14 and 17, sexual interactions are generally legal, but are subject to significant exceptions, particularly if the adolescent is under the care or authority of the offender or if their sexual self-determination is impaired⁷⁹.

In regard to juveniles, an exemption clause allows for the legal production and possession of juvenile pornography with the consent of the adolescent but has been subject to criticism. This clause contrasts with other legal provisions where consent cannot be considered valid under exploitative conditions, such as a significant age difference or a relationship of dependency, like between a student and a teacher. For instance, the law allows for the creation and possession of juvenile pornographic material with a 15-year-old student's consent, even in a relationship with a 35-year-old teacher, where the same sexual acts would be illicit due to the relationship's nature⁸⁰. This legal inconsistency means that adolescents may be less protected in the context of juvenile pornography than in direct sexual interactions. While the law aims to protect adolescents and give them more autonomy, it unintentionally creates loopholes that may not fully protect their well-being and rights. Beyond that, the criminalisation of self-created images involving juveniles also raises constitutional concerns regarding legal certainty and the right to sexual self-determination⁸¹.

Nevertheless, while Germany has established a comprehensive legal framework to combat CSAM, the observations of the Committee on the Rights of the Child point to significant in-

⁷⁸ Deutscher Bundestag, 'Deutscher Bundestag - Strafmaß Bei Kinderpornografie Soll Angepasst Werden' (*Deutscher Bundestag* 14 March 2024) <<https://www.bundestag.de/dokumente/textarchiv/2024/kw11-de-mindeststrafen-kinderpornographie-991110#:~:text=Der%20dazu%20vorgelegte%20Gesetzentwurf%20%E2%80%99Ezur>> accessed 23 June 2024.

⁷⁹ Dr Sabine Witting, 'Child Sexual Abuse in the Digital Era: Rethinking Legal Frameworks and Transnational Law Enforcement Collaboration' (11 June 2020): 58

⁸⁰ Ibid. 58

⁸¹ Ibid. 58

consistencies between the federal states, making it difficult to effectively coordinate and implement these laws⁸². Apart from this, statistics such as those from the Federal Criminal Police Office show a 7.4 per cent increase in CSAM offences in 2023, which is also an indicator of the urgent need for further practical improvements in the fight against CSAM⁸³.

1.2. Other Relevant Legal Measures: Interstate Treaty on the Protection of Human Dignity and the Protection of Minors

With the advancement of technology, laws have become stricter and legal measures against CSAM have been expanded through various regulations. This includes the German Interstate Treaty on the Protection of Human Dignity and the Protection of Minors, which came into force in 2016⁸⁴.

The treaty expands German criminal law⁸⁵ by regulating the distribution of CSAM on the Internet. Article 4⁸⁶ defines illegal content, in particular CSAM under Sections 184b and 184c of the German Criminal Code and content depicting children or adolescents in unnatural sexual poses, including virtual representations of children.

Article 5⁸⁷ states that providers must ensure that content that could impair the development of children or adolescents is not normally accessible to them by using age verification systems and technical measures to restrict access on the basis of age groups. Furthermore, Article 14⁸⁸ establishes the Commission for the Protection of Minors in the Media, which is responsible for ensuring compliance with the treaty. The Commission is made up of experts from various areas of child protection and media regulation, who review and evaluate content to ensure it meets

⁸² Committee on the Rights of the Child, ‘Committee on the Rights of the Concluding Observations on the Combined Fifth to Sixth Periodic Reports of Germany*’ (2022) <https://unfairtobacco.org/wp-content/uploads/2022/10/CRC_Germany_Concluding-Observations_Sept2022.pdf> accessed 30 August 2024: 2

⁸³ ‘Polizeiliche Kriminalstatistik 2023’ (2023) <https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/themen/sicherheit/pks-2023.pdf?__blob=publicationFile&v=3#:~:text=Im%20Berichts-jahr%202023%20wurden%20bundesweit,um%209%2C3%20Prozent%20h%C3%B6her.>> accessed 30 August 2024: 16

⁸⁴ Kommission für Jugendmedienschutz, ‘Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia’ (2016).

⁸⁵ Particularly under StGB § 184

⁸⁶ Ibid. Art. 4

⁸⁷ Ibid. Art. 5

⁸⁸ Ibid. Art.14

legal standards and certify voluntary self-regulation organisations. Article 16⁸⁹ details the Commission's responsibilities, including monitoring compliance, certifying self-regulation organisations, confirming age ratings, evaluating and licensing encryption and blocking technologies and assessing administrative offences under the agreement⁹⁰.

1.3. How Germany's Efforts Reflect the CRC, the OPSC, and the Budapest Convention on Cybercrime

In assessing the effectiveness of international standards on CSAM, in particular, those set by the CRC, the OPSC and the Budapest Convention on Cybercrime, this chapter examines how Germany's legislation integrates and complies with these frameworks to combat the sexual abuse and exploitation of children through images and video material on the internet.

This analysis uses the categories outlined in the second chapter, focusing on the country's initiatives to criminalise CSAM-related offences, their jurisdiction, law enforcement cooperation and measures to protect and uphold the rights of child victims, as well as prevention measures and public awareness efforts.

Criminalisation of CSAM- Offences

In Germany, the criminalisation and regulation of CSAM are primarily governed by the Criminal Code. Sections 184b to 184c in particular deal with the criminalisation of the distribution, acquisition, possession and production of material of a sexual nature that involves children and juveniles. Section 184b criminalises the distribution, production, acquisition, and possession of CSAM, defining it as any depiction of a sexual act involving a child (defined as a person under the age of 14) or any material that depicts children in a sexually explicit manner. This section is in line with the CRC's mandate to protect children from all forms of sexual exploitation and abuse, as set out in Article 34 of the CRC. The OPSC also establishes the illegality of the production and distribution of CSAM, which is directly related to the provisions set in Section 184b.

⁸⁹ Kommission für Jugendmedienschutz, 'Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia' (2016): Art. 16

⁹⁰ Byrin Romney, 'Screens, Teens, and Porn Scenes: Legislative Approaches to Protecting Youth from Exposure to Pornography' (2020) <<https://lawreview.vermontlaw.edu/wp-content/uploads/2021/01/04-Romney.pdf>> accessed 26 June 2024: 77-78

The Budapest Convention's Article 9 calls for the criminalisation of offences related to CSAM through computer systems. Section 184b addresses these concerns by covering a broad range of CSAM-related activities to ensure that both production and distribution by digital means are covered by German law. The alignment of Section 184c with these three international frameworks is also highlighted by the fact that the treaties uniformly define children as persons under the age of 18, whereas in Germany a legal distinction is made between children and adolescents. While Adolescents, though still vulnerable, are considered to have more autonomy than younger children, German jurisdiction treats offences involving them differently. This allows for more age-appropriate legal responses, without diminishing the broader aim of protecting all minors under 18 from sexual exploitation. §184c complements the international frameworks by providing specific provisions for adolescents which ensures comprehensive protection across all age groups under the category of minors.

Jurisdiction and Law Enforcement Cooperation

German criminal law extends its jurisdiction to both local and international offences, including those related to CSAM. It establishes extraterritorial jurisdiction committed abroad if either the perpetrators or the victims are German nationals. This means that such offences fall under national jurisdiction regardless of the local laws in which the offences were committed. In particular, offences against sexual self-determination, in which German nationals are involved as perpetrators or victims, are punishable under German law. Germany's commitment to international conventions⁹¹ also obliges it to prosecute such offences, even if they are committed outside their borders so that comprehensive protection against CSAM-related offences is guaranteed⁹².

⁹¹ E.g. *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography*: Art. 3; Art 4, and *Budapest Convention on Cybercrime*: Art. 9; Art 25

⁹² International Centre for Missing & Exploited Children, 'Germany: National Child Protection Legislation' (*International Centre for Missing & Exploited Children* May 2022) <<https://cdn.icmec.org/wp-content/uploads/2022/06/ICMEC-Germany-National-Legislation-May-2022.pdf>> accessed 23 June 2024.

German law comprehensively fulfils the requirements for jurisdiction and cooperation set out in Articles 5 and 10 of the OPSC and Articles 22 to 25 of the Budapest Convention. In particular, the German Criminal Code and the Act on International Mutual Assistance in Criminal Matters⁹³ provide the necessary legal foundation.

OPSC's Article 5 stipulates that states shall establish jurisdiction over offences related to the sale of children, child prostitution, and child pornography⁹⁴. Germany fulfills this requirement through Section 3 of its Criminal Code, which states that German criminal law applies to offences committed on German territory⁹⁵. Section 5 StGB extends jurisdiction to certain offences committed abroad if they affect German interests. In addition, Section 7 StGB⁹⁶ allows the prosecution of criminal offences committed by German nationals or residents abroad. This is in line with the OPSC's focus on jurisdiction over its nationals⁹⁷.

Article 10 of the OPSC calls for international cooperation for the “prevention, detection, investigation, prosecution, and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism”⁹⁸. Germany complies with this through the IRG⁹⁹, which facilitates mutual legal assistance and cooperation with foreign states, including extradition. Section 3 IRG in particular regulates the handling of requests for mutual legal assistance from foreign countries. Besides, Germany is also a party to various bilateral and multilateral agreements that promote international cooperation in criminal matters,

⁹³ Federal Ministry of Justice, ‘Act on International Mutual Assistance in Criminal Matters’ (*www.gesetze-im-internet.de* 27 June 1994) <https://www.gesetze-im-internet.de/englisch_irg/englisch_irg.html#p0034>

⁹⁴ United Nations, ‘Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography’ (2000): Art. 5

⁹⁵ Federal Ministry of Justice, ‘German Criminal Code’ <https://sherloc.unodc.org/cld/uploads/res/document/deu/1998/german_criminal_code_html/german_criminal_code.pdf>: Art. 3

⁹⁶ Ibid. Art. 5; Art. 7

⁹⁷ United Nations, ‘Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography’ (2000): Art. 4; Art. 5

⁹⁸ Ibid. Art. 10

⁹⁹ Council of Europe, ‘European Convention on Mutual Assistance in Criminal Matters’ (1959) <<https://rm.coe.int/16800656ce>>.

such as the European Convention on Extradition¹⁰⁰ and the Convention on Mutual Assistance in Criminal Matters¹⁰¹.

Article 22¹⁰² of the Budapest Convention on Cybercrime provides for jurisdiction to be established for offences in the area of the digital landscape. The fact that Germany complies with this is reflected in Sections 3 and 5 of the Criminal Code, which establish jurisdiction for criminal offences committed in Germany and by German nationals abroad. According to Section 6 of its criminal code, Germany may also have jurisdiction over serious offences committed abroad that affect international legal interests, in particular, the dissemination of pornographic material according to Section 184b (1)(2)¹⁰³ and Section 184c (1)(2).

Article 23¹⁰⁴ of the Budapest Convention emphasises international cooperation, which Germany addresses through sections 59 to 66 of the IRG¹⁰⁵, which regulate the procedures and principles of mutual legal assistance, including the collection and exchange of evidence that is essential for the investigation and prosecution of cybercrime.

Article 24¹⁰⁶ of the Budapest Convention deals with extradition. The German Extradition Act, which is embedded in the IRG, facilitates the extradition of persons for offences covered by the Convention. Germany also has numerous bilateral agreements that support the extradition process for cybercrime and other serious offences. Lastly, Article 25¹⁰⁷ provides for mutual legal assistance in criminal matters. Sections 59 to 67 of IRG provide the necessary framework for Germany to fulfil this requirement and regulate the execution of foreign requests for mutual legal assistance.

¹⁰⁰ Council of Europe, 'European Treaty Series -No. 24' (1957) <<https://rm.coe.int/1680064587>>.

¹⁰¹ Council of Europe, 'European Convention on Mutual Assistance in Criminal Matters' (1959) <<https://rm.coe.int/16800656ce>>.

¹⁰² Council of Europe, 'Convention on Cybercrime' (2001): Art. 22

¹⁰³ Federal Ministry of Justice, 'German Criminal Code' <https://sherloc.unodc.org/cld/uploads/res/document/deu/1998/german_criminal_code_html/german_criminal_code.pdf>: Art. 6 (6)

¹⁰⁴ Council of Europe, 'Convention on Cybercrime' (2001): Art. 23

¹⁰⁵ Federal Ministry of Justice, 'Act on International Mutual Assistance in Criminal Matters' (www.gesetze-im-internet.de/27 June 1994) <https://www.gesetze-im-internet.de/englisch_irg/englisch_irg.html#p0034>

¹⁰⁶ Ibid. Art. 24

¹⁰⁷ Federal Ministry of Justice, 'Act on International Mutual Assistance in Criminal Matters' (www.gesetze-im-internet.de/27 June 1994) <https://www.gesetze-im-internet.de/englisch_irg/englisch_irg.html#p0034>: Art. 25

Protection and Rights of Child Victims

Germany's national legislation effectively aligns with the protection and rights of child victims of CSAM, as outlined in CRC Articles 19 and 39, and OPSC Articles 8 and 9(3).

The Social Code on Child and Youth Welfare ensures that children are protected from any form of physical or mental violence, injury, abuse, neglect, maltreatment, or exploitation, including sexual abuse¹⁰⁸. The law mandates child protection services and sets out guidelines for interventions to ensure comprehensive child protection measures. One of the most important child protection-related provisions in SGB VIII is Section 8a, which obliges youth welfare offices to take the necessary measures to protect children from danger, including sexual exploitation and abuse. According to this, all indications that a child's welfare is at risk must be investigated and eliminated without delay. Section 42 enables authorities to take children into care if they are at risk, including in situations involving sexual exploitation or abuse, to ensure immediate protection and intervention. Section 50 allows family courts to intervene in cases where a child's welfare is at risk and to take appropriate legal action to protect the child. Although this instrument does not specifically mention CSAM, these provisions cover protection from all forms of sexual exploitation and abuse, which extends to CSAM.

Under the Social Code, Germany provides extensive therapeutic services for the rehabilitation and social reintegration of child victims. This includes psychological support and counselling to promote their physical and mental recovery and ensure their well-being and reintegration into society. Specifically, Section 35a SGB VIII deals with the provision of integration assistance for children and young people with mental disabilities, which ensures that these individuals receive the necessary support to promote their mental and physical health for their well-being and reintegration into society¹⁰⁹. Although CSAM victims would also be eligible for these services, the available data does not indicate how often such services are applied to this group.

The German Code of Criminal Procedure also implements the EU Victims' Rights Directive 2012/29/EU, which sets out minimum standards for the rights, support and protection of victims

¹⁰⁸ Bundesministerium der Justiz, 'SGB 8 - Sozialgesetzbuch (SGB) - Aches Buch (VIII) - Kinder- Und Jugendhilfe - (Artikel 1 Des Gesetzes v. 26. Juni 1990, BGBl. I S. 1163)' (www.gesetze-im-internet.de/1990/sgb_8/BJNR111630990.html) accessed 4 July 2024.

¹⁰⁹ Bundesministerium der Justiz, 'SGB 8 - Sozialgesetzbuch (SGB) - Aches Buch (VIII) - Kinder- Und Jugendhilfe - (Artikel 1 Des Gesetzes v. 26. Juni 1990, BGBl. I S. 1163)' (www.gesetze-im-internet.de/1990/sgb_8/BJNR111630990.html) accessed 4 July 2024: Section 35a

of criminal offences¹¹⁰. These include numerous protective measures designed to reduce the burden on victims in criminal proceedings, such as the possibility of excluding the public from the trial and special measures to protect witnesses during testimony. For children and adolescents who have been victims of sexual offences or other serious violence, the law provides for the possibility of video interrogation by the court in order to avoid repeated questioning during the main hearing¹¹¹. In addition, particularly vulnerable victims have the right to intensive support through psychosocial counselling before, during and after the main hearing. The Federal Ministry of Justice is in constant dialogue with the federal states to ensure that these legal provisions are actually implemented in practice. Victims also have access to various victim support organisations, such as the "*Weißer Ring e.V.*" or the "*Arbeitskreis der Opferhilfen in Deutschland e.V.*", which offer victims of crime professional help and support.

The online database ODABS¹¹² provides a nationwide overview of the support services available for victims of crime, which also includes those affected by sexual violence¹¹³. Youth Welfare Offices also provide comprehensive services for the recovery and reintegration of child victims, including psychological support, counselling, and educational assistance. All of this reflects Germany's efforts to its commitment to protecting the rights and welfare of children through robust legal frameworks and supportive measures¹¹⁴.

¹¹⁰ Bundesministerium der Justiz, 'Opferschutz Im Strafverfahren' (*Bundesministerium der Justiz* 21 June 2023) <https://www.bmj.de/DE/themen/praevention_opferhilfe/opferschutz_strafverfahren/einleitung_opferschutz_strafverfahren/opferschutz_einleitung_strafverfahren.html> accessed 4 July 2024.

¹¹¹ Ibid.

¹¹² Hilfe- Info für Betroffene von Straftaten, 'Beratungsstellen in Der Nähe Finden' (*Bundesministerium der Justiz*) <https://www.hilfe-info.de/Webs/hilfeinfo/DE/ODABS/odabs_node.html> accessed 11 August 2024.

¹¹³ Bundesministerium der Justiz, 'Opferschutz Im Strafverfahren' (*Bundesministerium der Justiz* 21 June 2023) <https://www.bmj.de/DE/themen/praevention_opferhilfe/opferschutz_strafverfahren/einleitung_opferschutz_strafverfahren/opferschutz_einleitung_strafverfahren.html> accessed 4 July 2024.

¹¹⁴ Bundesarbeitsgemeinschaft Landesjugendämter, 'Kinderschutz' (*www.unterstuetzung-die-ankommt.de*) <<https://www.unterstuetzung-die-ankommt.de/de/das-machen-wir/fuer-alle/kinderschutz/>> accessed 4 July 2024.

Preventive Measures and Public Awareness

According to the 2022 index report by Economist Impact, Germany ranks ninth in its comprehensiveness of prevention of CSAM out of the 60 countries included in the study¹¹⁵.

However, the country's compliance with Article 9 (1) (2) of the OPSC and Article 19(2) of the CRC includes a wide range of laws, measures and initiatives to raise public awareness. Article 9 (1) obliges States Parties to take and implement measures to prevent offences against the exploitation of children, while Article 19(2) of the CRC obliges states to establish social programs and other preventive measures, including identification, reporting, investigation, treatment, and judicial involvement.

Germany has enacted comprehensive laws, such as the Protection of Children and Young Persons Act and the Interstate Treaty on the Protection of Minors from Harmful Media, which aim to protect children from harmful media content¹¹⁶. The criminal code also criminalises CSAM. These laws are enforced with appropriate legal consequences for offenders and mechanisms to protect victims.

Article 9 (2) requires states to promote public awareness, including education and training programs on the harmful effects of child exploitation and prevention measures. Germany conducts extensive public awareness campaigns through various media channels, educational institutions, and community programs. For example, the "*Kein Kind alleine lassen*" (Engl.: No Child Left Alone) campaign aimed to protect children during the COVID-19 pandemic by raising awareness about child protection and providing resources for families and children in distress,

¹¹⁵ Economist Impact , 'Out of the Shadows Index 2022' (2022) <<https://cdn.outoftheshadows.global/uploads/documents/Out-of-the-Shadows-Index-2022-Global-Report.pdf>> accessed 30 August 2024: 61

¹¹⁶ The German Games Industry Association , 'Youth Protection Act' (*game*) <<https://www.game.de/en/protection-of-minors/#:~:text=The%20Protection%20of%20Young%20Persons>> accessed 5 July 2024.

including a hotline for those affected by sexual abuse¹¹⁷. Germany also participates in the annual *Safer Internet Day*, which promotes a safer and better internet, especially for children and young people, under the motto "Together for a better internet."¹¹⁸

Initiatives like the "*Internet-Beschwerdestelle*" (Engl.: Internet Complaint Office) allow individuals to report CSAM anonymously and are supported by public awareness campaigns that encourage the public to use these resources to report illegal content¹¹⁹. The "*Klicksafe*" initiative provides comprehensive resources and training to educators, parents, and children to foster safe internet practices¹²⁰. These campaigns aim to educate the public, especially children, about the dangers of child exploitation and the importance of reporting suspicious activity. Furthermore, the German government collaborates with non-governmental organisations, such as ECPAT International¹²¹ or INHOPE¹²², and other international bodies like Europol or Interpol¹²³ to enhance the effectiveness of these initiatives and ensure a broad and informed public.

¹¹⁷ Melanie Welters, '„Kein Kind Alleine Lassen“ – Missbrauchsbeauftragter Startet Soforthilfe-Aktion' (*jugendhilfeportal.de*) <<https://jugendhilfeportal.de/artikel/kein-kind-alleine-lassen-missbrauchsbeauftragter-startet-so-forthilfe-aktion>> accessed 5 July 2024.

¹¹⁸ Safer Internet Day, 'Together for a Better Internet' (*Safer Internet Day*) <<https://www.saferinternetday.org/de/>> accessed 5 July 2024.

¹¹⁹ Internet- Beschwerdestelle, 'Startseite' (*Home*) <<https://www.internet-beschwerdestelle.de/de/index.html>> accessed 5 July 2024.

¹²⁰ Klicksafe, 'Klicksafe.de: Die EU-Initiative Für Mehr Sicherheit Im Netz' (*klicksafe.de* 9 June 2024) <<https://www.klicksafe.de/>> accessed 5 July 2024.

¹²¹ ECPAT, 'Germany - ECPAT' (*ECPAT* 13 September 2021) <<https://ecpat.org/country/germany/>> accessed 7 August 2024.

¹²² INHOPE, 'Removing Child Sexual Abuse Material in Germany: A Look behind Some of the Fastest Removal Times in the World' (*Inhope.org* 30 March 2021) <<https://inhope.org/EN/articles/removing-child-sexual-abuse-material-in-germany-a-look-behind-some-of-the-fastest-removal-times-in-the-world>> accessed 7 August 2024.

¹²³ deutschland.de, 'Chasing Internet Gangsters: Find out Here How the German Police and Their International Partners Are Combating Cybercrime.' (*deutschland.de* 18 April 2021) <<https://www.deutschland.de/en/topic/politics/fighting-cybercrime-german-police-and-europol>> accessed 7 August 2024.

1.4. The Role of EU Legislation in Shaping Domestic Responses to Online Child Abuse

As Germany is part of the European Union, this section aims to discuss two key documents that have attracted considerable attention and debate across the international community.

Directives are generally binding instruments to its members; however, it is up to the individual state to choose how to reach these goals. The following will first take a look into Directive 2011/93/EU, followed by a discussion of the recent draft regulation of 2022 to combat CSAM online.

1.4.1. Directive 2011/93/EU on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography

The Directive 2011/93/EU was enacted by the European Parliament and the Council of Europe on December 13, 2011, and replaces the Council Framework Decision 2004/68/JHA.

The previous Decision was criticised for criminalising only a limited number of offences and for not effectively addressing the challenges posed by information technology and other new forms of abuse. In response to these shortcomings, the directive was introduced as part of an initiative to broaden the range of criminal offences related to CSAM. The framework decision was designed to comprehensively address serious criminal offences by harmonising the main elements of criminal law¹²⁴. Beyond that, as EU regulations and directives are often interconnected, especially when it comes to topics surrounding child protection, trafficking, and online safety, a revised EU Anti-Trafficking Directive has entered into force on July 14, 2024, introducing a stricter set of tools to investigate the newer forms of exploitation, including those taking place online¹²⁵.

¹²⁴ Dr Sabine Witting, 'Child Sexual Abuse in the Digital Era : Rethinking Legal Frameworks and Transnational Law Enforcement Collaboration' (11 June 2020): 56

¹²⁵ European Commission , 'Stronger EU Rules to Fight Trafficking in Human Beings Enter into Force' (*Migration and Home Affairs* 12 July 2024) <https://home-affairs.ec.europa.eu/news/stronger-eu-rules-fight-trafficking-human-beings-enter-force-2024-07-12_en> accessed 27 August 2024.

Unlike the CRC and the OPSC, the Directive specifically criminalises not just the production or distribution, but also the mere possession of CSAM, even through information and communication technology, as outlined in Article 5¹²⁶. It also extends jurisdiction and strengthens law enforcement powers by enabling the prosecution of offences committed both inside and outside the EU, as long as the offender or victim is an EU citizen or resident¹²⁷. However, under Article 8(3) of the Directive, members are free to decide whether to criminalise the production, acquisition or possession of sexual material involving minors who have reached the age of sexual consent under certain¹²⁸ conditions¹²⁹. This poses a significant legal challenge to the Directive's aim of protecting children from sexual exploitation. By allowing Member States to decriminalise the production, acquisition, and possession of such illicit materials involving minors of sexual consent for private use, the Directive poses the risk of enforcement difficulties and legal ambiguities. In particular, the inclusion of the term "acquisition" suggests a wider distribution than purely private production and use, potentially opening up loopholes for exploitation in the guise of consensual activity. Applying the clause to "persons" rather than just "children" could therefore allow adults to legally possess such materials, blurring the lines between consensual and exploitative content. This could potentially undermine consistent child protection standards across the EU, especially as the clause requires that there is no abuse in the creation of the material, a subjective term that is defined differently in different jurisdictions¹³⁰.

In Germany, Directive 2011/93/EU was implemented with the adoption of the 49th Act amending the Criminal Code in 2015, which transposed European standards in sexual offences law¹³¹. It also aligned Germany's laws on sexual offences with EU guidelines, introducing stricter

¹²⁶ European Parliament and the Council of the European Union, 'Directive - 2011/93 - EN - EUR-Lex' (*eur-lex.europa.eu* 13 December 2011) <<https://eur-lex.europa.eu/eli/dir/2011/93/oj>>: Art. 5 (2)

¹²⁷ 'Directive 2011/92/EU of the European Parliament and of the Council' (*Europa.eu* 13 December 2011) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093>>: Art. 17

¹²⁸ The material must be produced and possessed with the minors' consent, solely for private use by the individuals involved, and without any abuse.

¹²⁹ Directive 2011/92/EU of the European Parliament and of the Council' (*Europa.eu* 13 December 2011) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093>>: Art. 8

¹³⁰ Dr Sabine Witting, 'Child Sexual Abuse in the Digital Era : Rethinking Legal Frameworks and Transnational Law Enforcement Collaboration' (11 June 2020): 56

¹³¹ Independent Commissioner for Child Sexual Abuse Issues, 'International and European Law' (*UBSKM*) <<https://beauftragte-missbrauch.de/en/themen/recht/international-and-european-law>> accessed 18 June 2024.

criminalisation of possession, distribution, and production of CSAM. The directive required preventive measures and victim protection standards, which Germany implemented alongside the Act to Strengthen Victims' Rights (3rd Survivor's Rights Reform Act) to ensure comprehensive support during criminal proceedings¹³². The implementation also covered offences related to accessing CSAM through information and communication technologies, where possession includes storing content on digital media, such as hard drives or cached data in internet browsers. Furthermore, online grooming became a punishable offence under Article 176 (4)(3) of the German Criminal Code, which regulates both online and offline grooming with penalties of up to five years' imprisonment. Amendments to the Federal Law on the Central Criminal Register also improved background checks for people working with children, ensuring that employers have access to extended criminal records to better protect children¹³³.

In its preamble, the Directive 2011/93/EU recognises the CRC and other international obligations by the EU to protect children's rights and thus reaffirms the EU's commitment to compliance with international standards¹³⁴. It can be seen as an attempt to create laws within the European Union, that harmonise and align with international standards and agreements to which, in this case, Germany, is a party to. However, there are important distinctions to consider: While the CRC has been ratified by all EU member states individually, the European Union as such is not legally bound by these international frameworks in the same way as, for example, the Convention on the Rights of Persons with Disabilities, which has been ratified both by the EU and its member states.

¹³² Independent Commissioner for Child Sexual Abuse Issues, 'International and European Law' (*UBSKM*) <<https://beauftragte-missbrauch.de/en/themen/recht/international-and-european-law>> accessed 18 June 2024.

¹³³ 'A Survey on Transposition of Directive against Child Sexual Exploitation and Abuse' <<http://www.enacso.eu/wp-content/uploads/2016/02/A-survey-on-transposition-of-Directive-against-child-sexual-exploitation-and-abuse1.pdf>> accessed 8 September 2024: 117- 118

¹³⁴ "Directive 2011/92/EU of the European Parliament and of the Council' (*Europa.eu* 13 December 2011) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093>> accessed 13 June 2024: 1

1.4.2. Online Child Safety vs. Data Protection: The Controversy Surrounding the New EU Regulation

In response to the alarming increase in volumes of CSAM in the digital space over the past few years, the European Commission proposed a draft regulation specifically targeted at combating online child sexual abuse more effectively. The Commission adopted this proposal on May 11, 2022, with an initial enforcement date that was originally planned in August 2024.

However, due to ongoing debates and the need for further agreements, the adoption and enforcement of the draft regulation are now expected to be delayed beyond the scheduled date¹³⁵. This regulation would aim to fill the gaps left by broader legislative measures such as the DSA¹³⁶, which addresses illegal content online in a broader sense but is not as specific as would be necessary to effectively tackle CSAM. It also seeks to recast the Directive 2011/93/EU¹³⁷, which criminalises sexual abuse and exploitation of children and the production of CSAM across the EU, but has proven insufficient in the face of evolving digital challenges.

The draft introduces stricter detection, reporting and removal measures of CSAM aimed at providers of hosting, internet access and interpersonal communications services. Divided into six chapters, it establishes a comprehensive rulebook that covers general provisions, obligations for service providers, implementation and enforcement mechanisms, the establishment and role of an EU Centre, data collection and transparency requirements¹³⁸.

¹³⁵ Romane Armangau, 'Will EU Agree to Scan All Your Images to Combat Child Sexual Abuse?' (*euronews* 20 June 2024) <<https://www.euronews.com/next/2024/06/20/will-eu-agree-to-scan-all-your-online-images-to-combat-child-sexual-abuse>> accessed 7 July 2024.

¹³⁶ European Commission, 'Frequently Asked Questions - European Commission: Will This Legislation Duplicate the Digital Service Act' (*home-affairs.ec.europa.eu*) <https://home-affairs.ec.europa.eu/whats-new/communication-campaigns/euvschildsexual-abuse-campaign-prevent-and-combat-child-sexual-abuse/frequently-asked-questions_en>.

¹³⁷ Directorate-General for Migration and Home Affairs, 'Updated Rules to Protect Children from Sexual Abuse Online - European Commission' (*home-affairs.ec.europa.eu* 6 February 2024) <https://home-affairs.ec.europa.eu/news/updated-rules-protect-children-sexual-abuse-online-2024-02-06_en> accessed 7 July 2024.

¹³⁸ European Commission, 'Regulation of the European Parliament and of the Council Laying down Rules to Prevent and Combat Child Sexual Abuse' (2022).

Key developments include mandatory detection and reporting of CSAM by service providers, who must follow stricter legal steps to ensure proper implementation. The then-newly established EU Centre would take over the verification of reports, a task previously handled by a U.S.-based NGO. In addition, as the current system allows for unsorted data reports of CSAM cases to the police, the draft proposes that only confirmed cases would be forwarded to law enforcement. Not only that, but the draft also shifts the responsibility for content removal from individual tech firms to EU legislation and requires the removal of illicit content within 24 hours¹³⁹.

According to ECPAT International, this draft regulation represents a “much needed step to ensure child safety online”¹⁴⁰, advocating that this proposal is necessary to fill in the existing gaps in child protection bodies. ECPAT, along with other child rights organisations, has been instrumental in advocating for such measures through initiatives like the *Beacon Project*.

The project is primarily aimed at influencing the adoption of policies, regulations, and legal frameworks that will ensure child protection in digital spaces, with its primary audience being decision-makers within the EU¹⁴¹. While the draft regulation is not a direct product of the Beacon Project, the campaign did play a significant role in shaping its development¹⁴².

¹³⁹ ECPAT international, ‘How Far Are We to Ensure Child Safety Online in the EU? - ECPAT’ (ECPAT8 September 2023) <<https://ecpat.org/story/child-safety-online-eu-timeline/>> accessed 27 August 2024.

¹⁴⁰ Zipporah Goetze, ‘ECPAT Welcomes European Commission’s Proposal to Prevent and Combat Child Sexual Abuse - ECPAT’ (ECPAT17 May 2022) <<https://ecpat.org/eu-proposal-to-prevent-child-sexual-abuse/>> accessed 29 August 2024.

¹⁴¹ ECPAT International, ‘ECPAT Project Beacon: An EU-Wide Campaign on Children’s Rights to Protection and Privacy in Digital Environments’ <http://a.cs.coe.int/team20/lc/Working_Documents/31st%20meeting%20-%2029%20March-1%20April%202021/ECPAT%20Project%20Beacon%20Overview%20Feb%202021.pdf> accessed 29 August 2024.

¹⁴² ECPAT international, ‘What Is ECPAT Doing to Ensure Child Safety Online in the EU? - ECPAT’ (ECPAT8 November 2023) <<https://ecpat.org/story/ecpat-child-online-eu/#intro>> accessed 29 August 2024.

Although many child rights organisations support this regulation as a critical step towards a safer internet environment for children, it has also sparked a lot of debate, specifically around privacy concerns, with one of the main reasons being the requirement for encrypted messaging services to implement 'upload monitoring' technology to scan for CSAM¹⁴³.

In an Interview with child online safety expert John Carr, he noted that the proposal has met strong resistance, particularly from countries like Germany and Poland, who were concerned that this step could undermine encryption and privacy. He highlighted that these fears stem from deep-rooted values in their historical experiences under oppressive regimes, in which privacy protections were crucial. He also further explained that while history is important to consider, it should not prevent us from making progress in protecting children online, arguing for a balanced approach that ensures both effective child protection and the preservation of privacy¹⁴⁴.

However, the proposed EU regulation has drawn varied reactions from other member states as well. The Netherlands for example, alongside Germany, despite being major hosts of CSAM, are resisting strict regulations, leading to tensions within the EU. Others such as the United Kingdom seek to strike a balance through their Online Safety Bill, while Poland prioritises “privacy by design” and questions the need for more specific security regulations. Such diversity of opinion and approaches from EU member states shows the significant challenges that the international field faces in collaborating and harmonising child protection laws with the need for a technology-neutral approach¹⁴⁵.

¹⁴³ Romane Armangau, ‘Will EU Agree to Scan All Your Images to Combat Child Sexual Abuse?’ (*euronews* 20 June 2024) <<https://www.euronews.com/next/2024/06/20/will-eu-agree-to-scan-all-your-online-images-to-combat-child-sexual-abuse>> accessed 7 July 2024.

¹⁴⁴ John Carr, Interview by Daniela Figueiredo Moreira, 12 June 2024.

¹⁴⁵ Rubina Vieira De Góis, ‘The Controversies Surrounding EU’s Online Child Sexual Abuse Law’ (*Centre for European Progression* 18 January 2024) <<https://c4ep.eu/the-controversies-surrounding-eus-online-child-sexual-abuse-law/>> accessed 7 July 2024.

2. South Korea

The "Welcome to Video" case, which involved one of the largest darknet websites for CSAM, was shut down in 2019 and sparked global outrage. The site was operated by 23-year-old South Korean Jong Woo Son, who is now serving his sentence in South Korea. The investigation also led to the arrest of 337 people worldwide, including in countries such as Germany, the United Kingdom, and the United States¹⁴⁶.

South Korea, an East Asian country with just over 50 million inhabitants, 8.1 million of whom are under the age of 18, has experienced rapid development since the Korean War in the 1950s¹⁴⁷. In recent decades, the country has made enormous progress in the field of information and communication technologies and connectivity. In 1995, less than one percent of the population used the Internet, but by 1999 usage had already surpassed that of many industrialised countries. Today, South Korea is recognised as a global leader in internet access and connectivity¹⁴⁸.

In 2021, 53,932 suspected cases of child abuse were reported, of which 37,605 were confirmed, an increase of 27.6% compared to 2020. Since then, the number of confirmed cases has risen steadily, from 3,671 incidents in 2020 to 5,517 in 2021¹⁴⁹. At the EU-South Korea Summit in 2015, the importance of cybercrime-related issues was recognised and acknowledged as crucial to the joint relationship. Since then, five cyber dialogues have taken place between 2015 and 2020. South Korea is committed to greater global cooperation in the fight against cybercrime, although it has not signed the Budapest Convention yet¹⁵⁰.

¹⁴⁶ Office of Public Affairs: U.S Department of Justice, 'South Korean National and Hundreds of Others Charged Worldwide in the Takedown of the Largest Darknet Child Pornography Website, Which Was Funded by Bitcoin' (*Justice.gov* 16 October 2019) <<https://www.justice.gov/opa/pr/south-korean-national-and-hundreds-others-charged-worldwide-takedown-largest-darknet-child>>.

¹⁴⁷ ECPAT International & TACTEENNAEIL/ECPAT South Korea, 'Sexual Exploitation of Boys: South Korea Report' (November 2021): 4

¹⁴⁸ 'Compare South Korea, Canada and Japan :: EU Cyber Direct' (*Horizon*) <<https://eucyberdirect.eu/atlas/country/south-korea/compare/canada/japan>> accessed 14 July 2024.

¹⁴⁹ We Sun Shim, 'New Public-Centered Child Protection System in Korea' (2023) 66 *Clinical and Experimental Pediatrics* 179 <<https://e-cep.org/upload/pdf/cep-2023-00150.pdf>> accessed 22 October 2023: 179-180

¹⁵⁰ 'Compare South Korea, Canada and Japan :: EU Cyber Direct' (*Horizon*) <<https://eucyberdirect.eu/atlas/country/south-korea/compare/canada/japan>> accessed 14 July 2024.

However, in February 2023, South Korea was invited to join the Convention¹⁵¹, and discussions on accession were taken forward during a visit from the Cybercrime Convention Committee delegation, which included talks with the Korean Ministry of Justice, the National Police Agency, and the Supreme Prosecution Office¹⁵². In addition, South Korea has ratified several international instruments on the protection of children's rights, including the CRC and the OPSC¹⁵³.

2.1. South Korea's National Legislation on CSAM

Following the ratification of the CRC in 1991 and the OPSC in 2004, South Korea took legal steps to strengthen its child protection laws to include measures against CSAM-related offences. Initially, law enforcement efforts focused mainly on suppressing the production and distribution of *obscene material*¹⁵⁴, as mentioned in Sections 243 and 244 of the Korean Criminal Code¹⁵⁵, which do not directly refer to CSAM. The transmission of CSAM over the Internet is primarily regulated by the *Act on the Promotion and Utilisation of Information and Communication Networks and the Protection of Information*. Article 44-7¹⁵⁶ of this law prohibits the

¹⁵¹ This invitation to accede is valid for five years from its adoption; see: Council of Europe, 'Cameroon, Korea, Sierra Leone and Uruguay Invited to Join the Convention on Cybercrime - Cybercrime - Www.coe.int' (*Cybercrime* 9 February 2023) <<https://www.coe.int/en/web/cybercrime/-/cameroon-korea-sierra-leone-and-uruguay-invited-to-join-the-convention-on-cybercrime#:~:text=News&text=On%208%20February%2C%20Cameroon%2C%20Korea>> accessed 14 July 2024.

¹⁵² Council of Europe, 'Korea/Council of Europe Cooperation on Cybercrime: ISCR 2023 - Cybercrime - Www.coe.int' (*Cybercrime* September 2023) <<https://www.coe.int/en/web/cybercrime/-/korea/council-of-europe-cooperation-on-cybercrime-iscr-2023>>.

¹⁵³ ECPAT International & TACTEENNAEIL/ECPAT South Korea, 'Sexual Exploitation of Boys: South Korea Report' (November 2021): 5-6

¹⁵⁴ Debates about the term 'obscene material' focus on its application to different media, including sexual content. The Constitutional and the Supreme Court have addressed its definition, balancing legal restrictions and freedom of expression. South Korean law includes CSAM-related offences as 'obscene material'.

¹⁵⁵ Jompon Pitaksantayothin, 'A Comparative Study on Child Pornography Laws in the Republic of Korea and in Thailand against the Background of International Legal Frameworks' (2023): 137

¹⁵⁶ 'Act on Promotion of Information and Communications Network Utilization and Information Protection' (2001).

dissemination of obscene content on the Internet¹⁵⁷. Although the Criminal Code and the Information Network Act do not directly address CSAM, their provisions on obscenity and illegal material, as well as the Information Network Act's provisions on distributing harmful content through digital platforms, can be applied to CSAM cases. These laws allow the authorities to prosecute individuals involved in the production, distribution and possession of CSAM, although CSAM is not specifically mentioned.

The noticeable increase in sexual offences against children in the early 2000s led to a rethink by the South Korean authorities. With the growing understanding of the psychological and physical harm caused by CSAM, which had previously been underestimated in public discourse, the government has strengthened its protective measures¹⁵⁸. For example, the Protection of Young Persons from Sexual Offences Act, which was originally enacted in 2000 to protect children from various forms of exploitation, e.g. by prohibiting the distribution of CSAM (Art. 8), was replaced in 2008 by the Protection of Children and Young Persons from Sexual Offences Act, which is discussed in more detail in the following section. This change was made in response to the increasing prevalence of CSAM and public criticism¹⁵⁹.

2.2. The Act on the Protection of Children and Youth against Sex Offences

While South Korea's criminal law covers a broad range of offences, it does not cover those directed at CSAM. Instead, the country uses more targeted laws that can be more easily adapted to new developments and challenges, like technological advances that affect the production and distribution of CSAM. The central law of the South Korean legal framework to combat these illegal materials is therefore the *Protection of Children and Juveniles from Sexual Offences*

¹⁵⁷ Jompon Pitaksantayothin, 'A Comparative Study on Child Pornography Laws in the Republic of Korea and in Thailand against the Background of International Legal Frameworks ' (2023): 140-141

¹⁵⁸ Ibid. 137

¹⁵⁹ Ibid. 138

*Act*¹⁶⁰ (hereafter: PCSOA)¹⁶¹¹⁶². Enacted in 2008¹⁶³, the PCSOA aims to establish measures to punish sexual offences against children and youth, outline strategies to support and assist child victims, and systematically deal with offenders to protect minors from sexual abuse and help them become healthy and productive members of society (Art. 1).

Article 2 of the Act defines children and adolescents as persons under the age of 19, with the exception of those who have turned 19 within a calendar year¹⁶⁴. Furthermore, Art. 2(5) defines "*child or youth sexual exploitation materials*" as "depictions of children or youth, or persons or representations that can be *obviously* perceived as children or youth"¹⁶⁵, who engage in sexual acts and are shown in various media such as film, videos, game software, pictures or images, not including text and audio material¹⁶⁶.

With regard to the sexual characteristics of said materials, it can be determined by interpreting Article 2(4)(5) that the material can only be categorised as CSAM if it depicts children and adolescents in the following acts, including sexual intercourse, pseudo-sexual intercourse using body parts such as the mouth and anus or objects, touching or exposing the whole body or body parts that cause sexual humiliation or repulsion in normal people, and masturbation or participation in other sexual activities¹⁶⁷.

¹⁶⁰ 'The Act on the Protection of Children and Youth against Sex Offences' (*Klri.re.kr*2008) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=33019&type=part&key=16#:~:text=The%20purpose%20of%20this%20Act> accessed 27 July 2024.

¹⁶¹ Open Net Korea and Kelly Kim, 'Development in the Definition of Child Pornography in the Republic of Korea'.

¹⁶² Jompon Pitaksantayothin, 'A Comparative Study of Child Pornography Laws in the Republic of Korea and in Thailand against the Background of International Legal Frameworks' (nicolaus Copernicus University 2023): 137-138

¹⁶³ Ibid. 138

¹⁶⁴ The Act on the Protection of Children and Youth against Sex Offences' (*Klri.re.kr*2008) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=33019&type=part&key=16#:~:text=The%20purpose%20of%20this%20Act> : Art. 2

¹⁶⁵ Ibid. Art. 2

¹⁶⁶ Jompon Pitaksantayothin, 'A Comparative Study of Child Pornography Laws in the Republic of Korea and in Thailand against the Background of International Legal Frameworks' (nicolaus Copernicus University 2023): 138

¹⁶⁷ Ibid. 138

Another definition that might be relevant to CSAM is Art. 2(6)¹⁶⁸, which refers to "victimized children or youth," and includes minors who are victims of certain offences listed in the PCSOA, including those related to sexual exploitation, sexual abuse, commercial sexual activity and CSAM. As *Pitaksantayothin* points out, before 2011, the PCSOA only applied to material involving actual children. The 2011 amendment then extended this to characters and images that are "obviously perceived as children or young persons", impacting creators of cartoons, animations, computer-generated images and adult performers who may look like children.

Three years later, a ruling by the Korean Supreme Court clarified that material only qualifies as CSAM if the characters "clearly and undoubtedly" appear to be children to the viewer. Therefore, adults in school uniforms and childish cartoon characters are not considered CSAM under its national law, which underlines the regional focus on protecting real children and avoiding unreasonable restrictions on expression and privacy rights¹⁶⁹.

The main provision relating to the criminalisation of offences related to CSAM is Article 11¹⁷⁰, which relates directly to the production and distribution of such material. Persons involved in the production, import or export of CSAM are punishable by indefinite imprisonment or a minimum sentence of five years (1). Those who sell, lend, distribute, make available for commercial purposes or possess, transport, advertise or import these materials may be sentenced to up to five years' imprisonment (2). In the case of non-commercial distribution of CSAM, acts such as distributing, making available, advertising, importing, publicly exhibiting or showing these materials can lead to a prison sentence of at least three years (3). In addition, procuring a child or young person for the production of CSAM with knowledge of the intended use leads to a prison sentence of at least three years (4).

It is important to mention that if somebody, such as a student, reported CSAM to a teacher or authorities to seek help or legal intervention, they would not be liable under these provisions. Particularly Article 34 of the Act on the Protection of Children and Youth against Sex Offences

¹⁶⁸ The Act on the Protection of Children and Youth against Sex Offences ' (*Klri.re.kr*2008) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=33019&type=part&key=16#:~:text=The%20purpose%20of%20this%20Act> : Art. 2

¹⁶⁹ Jompon Pitaksantayothin, 'A Comparative Study of Child Pornography Laws in the Republic of Korea and in Thailand against the Background of International Legal Frameworks' (nicolaus Copernicus University 2023): 138-139

¹⁷⁰ The Act on the Protection of Children and Youth against Sex Offences ' (*Klri.re.kr*2008) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=33019&type=part&key=16#:~:text=The%20purpose%20of%20this%20Act> : Art. 11

allows any person to report offences, while teachers, alongside other professionals, are legally obliged to report the offences. The Article also ensures that individuals reporting these crimes are protected from liability and that their identity is safeguarded¹⁷¹.

Finally, acquiring, possessing or knowingly viewing CSAM is punishable by a custodial sentence of at least one year (5) if the offender knows that the material is CSAM. This "knowledge" requirement is crucial as it excludes persons who accidentally or incidentally obtain or view CSAM without prior knowledge¹⁷². At the same time, proving a criterion such as awareness of criminal involvement with CSAM could create a loophole in certain cases.

2.3. How South Korea's Efforts Reflect the CRC, the OPSC, and the Budapest Convention on Cybercrime

With the introduction of the Child Protection Act in 2000, South Korea has undergone a long, 20-year process of reorganising its child protection system. While the number of child protection agencies increased from 18 in 2001 to 95 in 2022, NGOs and other social organisations have steadily gained the trust of their government in the field of child protection.

In 2019, the National Policy for State Child Protection emphasised the public role of the child protection system, resulting in new amendments and revisions to several laws that consequently resulted in a new era. The aim of this change now lies in early identification, intervention, awareness-raising and a child-centred approach, which is expected to lead to a more proactive child protection system that will improve South Korea's ability to protect children from different forms of abuse¹⁷³.

The following section will analyse the extent to which South Korea's national legislation complies with international standards on CSAM, in particular those of the CRC, the OPSC and the Budapest Convention on Cybercrime. Given this background, this analysis will use the categories outlined in Chapter II and focus on South Korea's initiatives to criminalise CSAM-related

¹⁷¹ The Act on the Protection of Children and Youth against Sex Offences ' (Klri.re.kr2008) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=33019&type=part&key=16#:~:text=The%20purpose%20of%20this%20Act> : Art, 34

¹⁷² Jompon Pitaksantayothin, 'A Comparative Study of Child Pornography Laws in the Republic of Korea and in Thailand against the Background of International Legal Frameworks' (nicolaus Copernicus University 2023): 140

¹⁷³ We Sun Shim, 'New Public-Centered Child Protection System in Korea' (2023) 66 Clinical and Experimental Pediatrics 179 <<https://e-cep.org/upload/pdf/cep-2023-00150.pdf>> accessed 22 October 2023: 179-180

offences, its law enforcement cooperation and measures to protect and uphold the rights of child victims, as well as prevention measures and public awareness efforts.

Criminalisation of CSAM- Offences

Article 34 of the CRC calls on signatories to take certain measures to protect children from all forms of sexual exploitation and abuse, which includes the exploitative use of children in pornographic performances and materials. South Korea's Act on the Protection of Children and Juveniles from Sexual Offences¹⁷⁴ fulfils this provision by providing a set of robust legal measures to prevent and punish the sexual exploitation and abuse of children.

Article 1 of the Act forms a foundation, as it addresses the central aim of the treaty which is to protect children and young people from sexual abuse and exploitation, punish offenders and support child victims. As the main provision for the criminalisation of CSAM offences, Article 11 corresponds to Article 3(1)(c) of the OPSC, which requires States Parties to criminalise the production, distribution, dissemination, import, export, offering for sale, sale and possession of CSAM.

In addition, Article 9 of the Budapest Convention on Cybercrime requires States Parties to adopt legal measures to criminalise such offences related to CSAM when committed intentionally and through computer systems. The South Korean Act on the Promotion of the Use of Information and Communication Networks and the Protection of Information¹⁷⁵, in particular Article 44-7, fulfils these requirements by prohibiting the distribution, sale, rental or display of obscene content in digital formats, which can also be extended to CSAM, in line with the standards set out in Article 9 of the Budapest Convention.

¹⁷⁴ The Act on the Protection of Children and Youth against Sex Offences ' (Klri.re.kr2008) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=33019&type=part&key=16#::~:~:text=The%20purpose%20of%20this%20Act>

¹⁷⁵ Korean Legislation Research Institute, 'Statutes of the Republic of Korea: Act on the Promotion of the Use of Information and Communication Networks and the Protection of Information' (Klri.re.kr2016) <https://elaw.klri.re.kr/eng_service/lawView.do?hseq=38422&lang=ENG> accessed 7 August 2024.

Jurisdiction and Law Enforcement Cooperation

The South Korean *Extradition Act*¹⁷⁶ adheres to the OPSC and Budapest Convention on Cyber-crime regulations with several key provisions. Article 5 of the Act establishes a basic framework, which states that “any offender who is in the territory of the Republic of Korea may be extradited to the Requesting State upon the request of the Requesting State for the purpose of prosecution, trials, or punishment¹⁷⁷”. In comparison to Article 5 of the OPSC and Article 24 of the Budapest Convention, all three articles enshrine the principle that offenders may be extradited for the purpose of prosecution, trial or punishment, which constitutes an obligation of cross-border cooperation in criminal matters. The main difference here lies in the "scope of offences", i.e. while the Budapest Convention and the OPSC focus on specific types of offences related to the sale of children, child prostitution and child pornography or offences through computer systems, the South Korean Extradition Act provides more of a general framework that applies to all sorts of offenders. Moreover, Article 6 of the Extradition Act states that "extraditable offences are limited to offences punishable by death, life imprisonment, life imprisonment without deprivation of liberty, deprivation of liberty for at least one year or deprivation of liberty without deprivation of liberty for at least one year under the laws of both the Republic of Korea and the requesting state"¹⁷⁸. Similar to Article 5 of the OPSC and Article 24 of the Budapest Convention, Article 6 provides a basis for recognising serious criminal offences as extraditable and ensuring international cooperation. Under the *principle of dual criminality*, Article 6 mandates that the offence committed must be punishable under the laws of both South Korea and the requesting state, which is also consistent with the OPSC's provision that such offences should be included in extradition treaties to ensure that both countries recognise the seriousness of the offence.

As extradition already indicates cross-border cooperation, these efforts automatically meet the requirements of Article 10 of the OPSC and Article 23 of the Budapest Convention, which call on states to cooperate in combating child abuse and exploitation. South Korea further underlines its commitment to international cooperation by complying with international conventions and

¹⁷⁶ Statutes of the Republic of Korea, ‘Extradition Act’ (*Klri.re.kr*1988) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=56109&type=part&key=9#:~:text=Pursuant%20to%20the%20provisions%20of> accessed 29 July 2024.

¹⁷⁷ Ibid. Art. 5

¹⁷⁸ Ibid. Art.6

protocols such as the CRC and the OPSC or by cooperating with Interpol¹⁷⁹ or other international NGOs such as UNICEF¹⁸⁰ for example. The South Korean legal framework, in particular the *Act on International Mutual Legal Assistance in Criminal Matters*, aligns with Article 25 of the Budapest Convention, which sets out the principles of mutual legal assistance. The purpose of this Act is to promote cross-border cooperation in combating and preventing criminal offences by regulating the scope and procedure of mutual legal assistance provided at the request of a foreign state in connection with investigations or judicial proceedings in criminal matters and requested by that state¹⁸¹.

Protection and Rights of Child Victims

When it comes to the protection and rights of child victims, Article 19 of the CRC and Article 8 of the OPSC establish a comprehensive set of measures to protect children from exploitation and abuse. Over the years, South Korea has established a legal foundation that protects children from various forms of harm and violence, as set out in treaties such as the Child Protection Act, the Act on the Protection of Children and Adolescents from Sexual Offences, the Act on the Protection of Children and Adolescents from Sexual Abuse or Act on Special Cases Concerning the Punishment of Child Abuse Crimes. These documents not only demonstrate the relevance and efforts of children's rights in South Korea but also the country's support for those who fall victims of such abuse. This is directly in line with Article 39 of the CRC and Article 9 (3) of the OPCS, which call on states to promote the psychological and physical integration of victims of exploitation and abuse.

Chapter 3 of the Protection of Children and Adolescents from Sexual Offences Act contains several key provisions, all of which provide for protection and support measures for victimized children and can be found in Articles 36 to 43. Overall, these articles cover a range of measures that mandate the protection of child victims. Another important Article is Article 10 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes, which ensures that any case of child abuse is reported promptly. It does that by establishing several provisions, such as mandatory reporting, especially for certain professions in the field of child welfare, health and

¹⁷⁹ cf. <https://www.interpol.int/Who-we-are/Member-countries/Asia-South-Pacific/KOREA-Rep.-of>

¹⁸⁰ cf. <https://www.unicef.org/gok/stories/unicef-and-korea-strengthen-collaboration-child-rights-issues>

¹⁸¹ 'Act on International Judicial Mutual Assistance in Criminal Matters' (*Klri.re.kr*1991) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=56083&type=part&key=9#:~:text=The%20purpose%20of%20this%20Act>: Article 1

social services, education or medical staff, ensuring confidential and immediate investigation. It even goes as far as protecting the reporters involved under the Act on Protection of Specific Crime Informants¹⁸².

Beyond those legislative measures, South Korea also works with international NGOs like ECPAT International¹⁸³ and has established the so-called Gwangju Sunflower Center, which is a joint agreement between the Gwangju Provincial Police Agency, Gwangju Metropolitan City, and Chosun University Hospital, aimed at counselling, medical and investigative support for victims of violence, exploitation or abuse, which includes victims of CSAM¹⁸⁴. One of the major projects of the National Center for the Rights of the Child in South Korea even covers the support and promotion of family reunions for victimized children¹⁸⁵.

As the Economist Impact Index Report shows, South Korea is one of only two countries that has established national rehabilitation services for children with problematic sexual behaviour. In 2022, the Ministry of Gender Equality and Family launched a cognitive behavioural therapy programme for children and adolescents who show problematic sexual behaviour to prevent future offending. This programme focuses primarily on addressing problematic behaviour, rather than treating victims of sexual violence, reflecting a broader approach to preventing repeat offences through behavioural interventions.

In its 2019 Concluding Observations, the UN Committee on the Rights of the Child expressed concern about the rise of online child sexual exploitation in South Korea. The Committee urged the government to take all necessary measures to prevent and respond to all forms of child sexual exploitation and abuse, including online grooming and emphasised that children involved in sexual exploitation should be treated as victims, not perpetrators. The Committee also

¹⁸² ‘Statutes of the Republic of Korea: Act on Special Cases Concerning the Punishment of Child Abuse Crimes’ (*Klri.re.kr*2014) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=62078&type=part&key=9> accessed 1 August 2024: Art. 10

¹⁸³ Tacteen Naeil – ECPAT Korea, ‘Ecpat South Korea’ (*ECPAT*) <<https://ecpat.org/country/south-korea/>> accessed 1 August 2024.

¹⁸⁴ Chosun University Hospital, ‘Special Care Center’ (*Chosun.ac.kr*2015) <https://hosp.chosun.ac.kr/sub-page/?site=hospital_en&mn=452> accessed 1 August 2024.

¹⁸⁵ The National Center for the Rights of the Child, ‘National Center for the Rights of the Child - Child Abuse Prevention and Child Protection’ (*www.ncrc.or.kr*) <https://www.ncrc.or.kr/ncrc_en/cm/cntnts/cntntsView.do?mi=1240&cntntsId=1207> accessed 1 August 2024.

called for increased awareness-raising in schools and the establishment of child-friendly, confidential channels for reporting sexual abuse and exploitation, as well as stronger enforcement measures against perpetrators, including teachers¹⁸⁶.

Preventive Measures and Public Awareness

In 2022, South Korea was ranked fourth place out of 60 countries in its comprehensiveness of prevention efforts, and sixth in its overall performance in preventing and responding to child sexual exploitation and abuse, according to the Index Report by Economist Impact¹⁸⁷.

South Korea's compliance with Article 9 of the OPSC and Article 19 of the CRC is reflected in its multifaceted approach. First and foremost, as Article 9 (1) requires member states to take legal measures to prevent the exploitation of children, South Korea has demonstrated compliance with the provisions of the Child Welfare Act, the Act on the Protection of Children and Juveniles from Sexual Abuse or the Act on the Protection of Children and Adolescents from Sexual Offences by enacting comprehensive legislation. In addition, the criminalisation of "obscene material", which extends to CSAM-related offences, can also be interpreted as a form of prevention.

Moreover, South Korea has actively sought to raise public awareness, including education and training programmes, to combat the harmful effects of child exploitation and take preventive measures to comply with Article 9(2) of the OPSC. In 2020, a South Korean study evaluated the effectiveness of the CSAPE-H programme (Child Sexual Abuse Prevention Education using a Hybrid application) with fifth-graders. The study focused on two key elements: knowledge of sexual abuse prevention and examination of self-protective behaviour. Results showed that the CSAPE-H program was effective in improving self-protective behaviours in elementary school students. This hybrid application was found to be more engaging and rewarding than traditional teaching methods. It suggests that integrating technology into sexual abuse education can increase the effectiveness of such programmes, especially for sensitive topics such as sexual abuse prevention¹⁸⁸.

¹⁸⁶ 'Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Republic of Korea*' (2019):8

¹⁸⁷ Ibid. 61

¹⁸⁸ So Ra Kang, Shin-Jeong Kim and Kyung-Ah Kang, 'Effects of Child Sexual Abuse Prevention Education Program Using Hybrid Application (CSAPE-H) on Fifth-Grade Students in South Korea' [2020] The Journal of School Nursing.

Furthermore, training programmes include an annual academic seminar organised by Mugunghwa Welfare World and the Korean Association for the Prevention of Child Abuse and Neglect, which focuses on training professionals and improving the child protection system¹⁸⁹. Under the slogan "Children are our future", the now globally active NGO *ChildFund* Korea launched a programme in 2009 that works to prevent and protect the rights of children from violence and abuse and to support child victims of sexual abuse¹⁹⁰.

¹⁸⁹ 'SGI - Academic Seminar on Child Abuse Prevention in South Korea' (*SGI Action for Peace*) <<https://sgi-peace.org/latest/academic-seminar-on-child-abuse-prevention-in-south-korea>> accessed 1 August 2024.

¹⁹⁰ ChildFund Korea, 'ChildFund Korea: History' (www.childfund.or.kr) <<https://www.childfund.or.kr/eng/org/history.do>> accessed 1 August 2024.

Chapter Four: Identification of Challenges and Opportunities in Combatting CSAM

All three semi-structured, qualitative Interviews with John Carr, Dr. Dorothea Czarnecki and Dr. Jompon Pitaksantayothin look at the current challenges and opportunities in the development of the fight against CSAM. The idea of this chapter is to provide important insights and perspectives from different areas in the arena of CSAM, and child protection in general, to offer a more comprehensive understanding of its evolving landscape. These perspectives will help address the research question by exploring key challenges and opportunities for enhancing child protection strategies.

While Carr focuses on the impact of newer technologies such as encryption, the weakness of international institutions and the importance of striking a balance between the right to privacy and the protection of children, the interview with Dr. Dorothea Czarnecki focuses on the role of education and prevention in child protection, the importance of integrating technology-based solutions into law enforcement and the challenges of balancing the criminalisation of minors while ensuring their protection in digital spaces. In the last interview with Dr. Jompon Pitaksantayothin, we look at a non-European perspective, in particular the challenges faced by South Korea and Thailand in harmonising their laws with these international standards, addressing issues such as the age of consent, conservative legislation and international cooperation, especially with regard to CSAM.

1. Addressing Technological Gaps in the Legal Framework and Online Safety Education

During the Interview with Child Rights Expert and Digital Forensic Analyst **Dr. Dorothea Czarnecki**¹⁹¹, several issues in child protection came to the surface. When discussing some of the key principles within the **international legal frameworks** relevant to combating CSAM, not only did we discuss the CRC and OPSC's functionality, but the Interviewee also pointed to a critical challenge that had already been noted in earlier chapters of this study, namely the difficulties in updating these frameworks amidst rapidly evolving technological impacts.

Taking the Lanzarote Convention as an example, Czarnecki asks herself "How do you cover the current [technological] situation and stay open in the wording to cover also possible future developments, which is a problem that you see now, for instance, in the Lanzarote Convention- which is specifically against the sexual abuse and sexual manipulation of children. When it

¹⁹¹ Interview with Dr. Dorothea Czarnecki, by Daniela Figueiredo Moreira, 16.01.2024

came into force like 10 years ago nobody had any idea or could not foresee how much tech possibilities would impact the life of children and youth”¹⁹². This is an issue not only targeted at the Lanzarote Convention but also extends to other internationally binding treaties, as international bodies responsible for the monitoring of their implementation struggle with these newer developments.

When discussing **the role of education and awareness programs**, Czarnecki stressed their importance but noted that such initiatives and professions are often underfunded and typically not considered essential elements when it comes to child protection measures. With this background, she raises concerns about the large gap in online safety education and digital literacy programs in schools, which leaves children without the necessary skills to use the internet safely, she states: „Schools demand for every student to have a tablet by the age of 10, but do they do anything about online safety? Nothing.”¹⁹³ Not only that but as a digital forensic analyst, the interviewee argued that this gap is a major vulnerability factor that exposes children to potential perpetrators online. Even though some schools already have existing digital literacy programs, their success remains very dependent on the educators or guardians, which is often linked to fear and misunderstanding of technology. “For some parents the Internet means Facebook, or they can send out an email. Then there are limited understandings in many people, from talking to parents for instance or educators, they have the fear of looking stupid, and they don’t want to admit that they struggle with it, with whatever new apps there might be”¹⁹⁴, says Czarnecki.

The rapid advances in technological tools and the fact that older generations have not grown up with such innovations create additional barriers and raise legitimate concerns that are often overlooked but need to be addressed to ensure children's online safety. During this part of the Interview, Czarnecki also advocates for adult-free spaces online, as she argues that while protection and supervision are necessary, it is equally important to allow children and teenagers the freedom to explore online spaces independently.

When asked about **policy recommendations** to enhance the international legal framework's effectiveness in combating CSAM, the Interviewee immediately pointed to the importance of standardised legal definitions, beginning with the age of consent and the definition of a child. This particular problem also became clear in the previous country analysis: although South

¹⁹² Interview with Dr. Dorothea Czarnecki, by Daniela Figueiredo Moreira, 16.01.2024

¹⁹³ Ibid.

¹⁹⁴ Ibid.

Korea and Germany have ratified the same international instruments, they have different legal definitions of the term ‘child’ for example. Such discrepancies are particularly problematic given the cross-border nature of CSAM-related offences, which require close international co-operation.

The interviewee notes that the lack of resources, including insufficient English-speaking officials and funding for translators, is also hampering investigations in many countries. This shortage of resources is exacerbated by the large amounts of data that need to be processed, making it clear that traditional methods are not enough. More technology-based solutions for the detection and elimination of CSAM are urgently needed to address this problem.

However, implementing these solutions is difficult as government authorities are reluctant to do so due to the high cost and political disinterest in change, which takes longer to implement than the typical political cycle. Initiatives such as the global INHOPE classifier for CSAM attempt to bridge this gap, but their effectiveness remains uncertain.

Czarnecki therefore believes in a **multidisciplinary approach**, as CSAM is a multifaceted issue that cannot be tackled using a single method. The field of child protection itself is influenced by many egos and vested interests, which raises questions about the true impact of their work and their commitment to children's rights. Companies like META who have stopped scanning for CSAM are undermining their credibility in the child protection debate. The international community must find the courage to hold these companies accountable and exclude them from important discussions if they are not truly committed to protecting children in order to ensure a safer digital environment for all in the long term.

2. The Challenges in balancing Privacy, Encryption, and Child Protection

John Carr¹⁹⁵, who has extensive experience in the field of digital child safety, sees the **weakness of international institutions** as the current biggest challenge in harmonising international laws, compounded by the current geopolitical situation. He explains: “I think even the ability to agree a set of words would be complicated now, much less agree on how to implement them, hence, and there are no real mechanisms in existence in any event, which help in the field of children’s rights. Such mechanisms that exist have no real power, nobody is afraid of them”¹⁹⁶.

¹⁹⁵ Interview with Mr. John Carr, by Daniela Figueiredo Moreira, 12.07.2024

¹⁹⁶ Ibid

As to the role of **emerging technologies** in both the spread and prevention of CSAM, Carr emphasises how important they are. He notes that the historic approach of self-regulation, adopted by institutions like the United Nations and the Council of Europe, has proven ineffective. The rapid growth of the internet, driven by technology companies with a benevolent mission, was a mistake that led to inadequate regulation. With the emergence of newer technologies such as encryption, the interviewee points to their threat to the rule of law. Although there is no legal framework that declares privacy to be an absolute right, private entities have elevated it to such a status, rendering law enforcement agencies powerless to access important evidence and thus threatening the safety of children and the rule of law in general.

“If you look at last year’s figures for example, if you look at NCMEC in the United States, you will see that Google reported 1,7 million instances of CSAM, which was found on its platform. Instagram reported 11,5 Million and Facebook/ Messenger reported 17 Million. How many did Apple report in the same period? 267”¹⁹⁷, Carr continued. Such discrepancies in the reporting of CSAM show how encryption can hinder efforts to protect children's digital environment. In light of this issue and other newer technologies such as AI, the interviewee calls for a more robust institutional framework based on transparency, verifiability and accountability. He believes there is insufficient trust in large technology companies or government institutions without oversight and urges independent institutions to act as watchdogs on behalf of the public. In his view, the big tech companies are delaying necessary changes to maintain the status quo that has made them rich and powerful. The challenge is to turn public opinion in favour of stronger measures to protect children into political action to counter the lobbying power of the big tech companies.

When discussing the **role of public awareness and education**, John Carr has similar views to Dr. Dorothea Czarnecki: “We need a better educated public, better educated parents, better educated children in the world, in this new digital world that we're all having to live in. It's fundamentally important. But, you know, we can't rely on the industry to do it. It's a matter for the state and the schools to help parents and the civil society to get up to speed.”¹⁹⁸

In this discussion, he referred to a survey he conducted with ECPAT International, in which 15 EU member states were asked about data protection and online child protection. He said: “Peo-

¹⁹⁷ Interview with Mr. John Carr, by Daniela Figueiredo Moreira, 12.07.2024

¹⁹⁸ Ibid.

ple had no idea that it was possible to do things to detect child sexual abuse, you know, grooming or images. And when we told them that it was, the only thing they wanted to know was why isn't it already being done? Why isn't this compulsory? And that is public opinion.¹⁹⁹”

He therefore sees the challenge in channelling this public opinion into democratic political institutions, something that has not yet been achieved.

3. Inconsistent Legal Definitions, Transnational Cooperation, and the Emergence of New Forms of CSAM

In an Interview with **Dr. Jompon Pitaksantayothin**²⁰⁰, an Associate Professor of Information Technology Law specialising in legal studies and cybercrime in South Korea, we explored various aspects of combating CSAM, focusing particularly on the approaches taken by South Korea and Thailand.

He was particularly concerned about the **inconsistency of legal definitions** and their harmonisation with international standards. As discussed in Chapter III, South Korea categorises minors as persons under the age of 19, which is not in line with the standards set out in the CRC and the Budapest Convention and makes international cooperation and the practical application of these provisions difficult. The situation is similar in Thailand, where the age limit is 18, but the legal age for marriage is 17. This discrepancy means that legally married minors could unintentionally violate CSAM laws when sharing intimate images. These examples emphasise the need for consistent legal definitions to ensure the effectiveness of an international legal framework.

Dr. Pitaksantayothin also points out that the CSAM laws in Thailand, for example, criminalise not only visual material but also audio and written content, while the laws in South Korea are more closely aligned with international standards and focus primarily on visual material. The interviewee calls on countries and internationally binding instruments to differentiate between legal and illegal content, for example in the case of fictional or AI-generated material.

Especially with the **emergence of new forms of CSAM**, it is becoming increasingly difficult to recognise and prosecute these cases, as the laws do not sufficiently differentiate between real-human and non-human depictions, he explains: "Now we are in the age of AI, so it is much

¹⁹⁹ Interview with Mr. John Carr, by Daniela Figueiredo Moreira, 12.07.2024

²⁰⁰ Interview with Dr. Jompon Pitaksantayothin, by Daniela Figueiredo Moreira, 02.08.2024

easier for people to create this kind of stuff from AI-digital generators. As a result, it made things even more complicated, especially when we have to determine whether the things in the material are of a young person under the age of 18 or 19 or not.²⁰¹"

Commenting on the fact that South Korea has not yet joined the **Budapest Convention on Cybercrime**, Dr. Pitaksantayothin noted that joining this convention could significantly improve international cooperation, particularly in the exchange of evidence and cross-border harmonisation of legal norms, which would enable better joint operations against CSAM networks. At the regional level, South Korea, along with several other Asian countries, has already joined the International Platform for Combating Exploitation²⁰², demonstrating its commitment to change.

Despite these efforts, however, there are several reasons for the delay in ratifying the Budapest Convention. One of the main factors is the complexity of harmonising South Korea's national laws with the Convention's standards, particularly in regard to the legal definition of minors mentioned above. Changing this definition would require significant changes to existing national laws, potentially impacting a wide range of legislation beyond cybercrime laws.

Pitaksantayothin stressed that such amendments are challenging as they would require extensive legislative reforms affecting multiple areas of legislation. In addition, the delay could also be due to internal legislative procedures and possible resistance to such comprehensive adjustments. Nonetheless, the Interviewee believes that joining the Convention would ultimately facilitate cooperation with international law enforcement agencies. An example of this is South Korea's recent cooperation with the United States, the United Kingdom, Germany and others in shutting down child pornography websites on the darknet. Despite South Korea's tendency to cooperate in response to requests rather than taking proactive initiatives, their involvement in these joint operations demonstrates a commitment to combating CSAM. As the interviewee noted: "When they receive requests from the United States, UK, or European countries, they certainly do allow police officers from other countries to participate in investigations."²⁰³

²⁰¹ Interview with Dr. Jompon Pitaksantayothin, by Daniela Figueiredo Moreira, 02.08.2024

²⁰² So far, law enforcement agencies from Nepal, Taiwan, Singapore, Indonesia, Thailand and the United Arab Emirates have expressed their interest in participating. The non-profit organisation National Centre for Missing and Exploited Children has also announced that it will take part in cross-border cooperation.

²⁰³ Interview with Dr. Jompon Pitaksantayothin, by Daniela Figueiredo Moreira, 02.08.2024

Chapter Five: Child Rights and Prevention: Recommendations for a Global Response to Digital Child Sexual Abuse

The previous analysis, which examined the effectiveness of the international legal framework of the CRC, its Optional Protocol and the Budapest Convention on Cybercrime in regulating child sexual abuse material through a country-by-country analysis between Germany and South Korea, has shown that the legal framework at both international and national levels emphasises measures of criminalisation over those of prevention. While criminal law frameworks are primarily designed to respond to offences after they have occurred, the broader legal systems, including child protection and social services legislation, provide a basis for proactive measures. Still, the emphasis remains on punitive responses rather than preventive strategies.

This chapter argues for a shift in thinking and addresses the problem of the lack of prevention strategies for people who are attracted to minors. Understanding what a pedophilic disorder is can effectively address the growing problem of CSAM in the long term, reduce the risk of offending behaviour in the future and create an overall safer digital environment for children.

But before we turn to the key elements of this chapter, it is important to establish a basic understanding of pedophilic disorder. Classified as a form of paraphilia²⁰⁴, a “pedophilic disorder is characterised by recurrent, intense sexually arousing fantasies, urges, or behaviours involving sexual activity with prepubescent children (generally ≤ 13 years); based on clinical criteria, it is diagnosed only when the patient is ≥ 16 years and ≥ 5 years older than the child who is the target of the fantasies or behaviours”²⁰⁵.

²⁰⁴ Paraphilic disorders are recurring, intense sexual fantasies, urges, or behaviours involving objects, children, nonconsenting adults, or humiliation, which cause distress or disability and may lead to harm.

²⁰⁵ George R Brown, ‘Pedophilic Disorder - Psychiatric Disorders’ (*MSD Manual Professional Edition* July 2023) <<https://www.msdmanuals.com/professional/psychiatric-disorders/paraphilias-and-paraphilic-disorders/pedophilic-disorder>>.

Studies suggest that about 1 to 5 Percent of the male population have a sexual preference for prepubescent children²⁰⁶, whereas attraction to pubescent children²⁰⁷ is more prevalent²⁰⁸. This attraction can be towards young boys, girls, or both.

The prevalence of victimisation between sexes remains uncertain, though females are more likely to become victims of sexual abuse overall²⁰⁹.

Contrary to popular belief, people with pedophilia are not necessarily involved in the sexual abuse of children²¹⁰. Many of those affected seek preventative treatment because they are suffering from their sexual preferences or out of fear of sexually abusing a child. Various national and international programs, including the German Prevention Network "*Kein Täter werden*," which will be discussed later in this chapter, offer support to these people. These programmes focus on behavioural control, emotional self-regulation, and the reduction of psychological distress through cognitive behavioural interventions and, in some cases, pharmacological treatment like testosterone-lowering medication²¹¹.

However, despite these services, stigma remains a major barrier to help-seeking. Negative stereotypes about pedophilia are often perpetuated in the media, leading to an even greater public stigmatisation than with other disorders, such as alcoholism or schizophrenia. For example, a significant percentage of respondents to a survey conducted by *Jahnke, Imhoff et al.* believe that non-offenders with pedophilia "*should be dead*"²¹².

²⁰⁶ The term pedophilia refers to a sexual preference for prepubescent children

²⁰⁷ Although the term hebephilia is not widely used, it has been suggested to describe the erotic preference for pubescent children, typically aged 11 or 12 to 14.

²⁰⁸ Daniela Stelzmann, Sara Jahnke and Laura F Kuhle, 'Media Coverage of Pedophilia and Its Impact on Help-Seeking Persons with Pedophilia in Germany—a Focus Group Study' (2022) 19 *International Journal of Environmental Research and Public Health* 9356: 1

²⁰⁹ George R Brown, 'Pedophilic Disorder - Psychiatric Disorders' (*MSD Manual Professional Edition* July 2023) <<https://www.msmanuals.com/professional/psychiatric-disorders/paraphilias-and-paraphilic-disorders/pedophilic-disorder>>.

²¹⁰ Daniela Stelzmann, Sara Jahnke and Laura F Kuhle, 'Media Coverage of Pedophilia and Its Impact on Help-Seeking Persons with Pedophilia in Germany—a Focus Group Study' (2022) 19 *International Journal of Environmental Research and Public Health* 9356:1

²¹¹ *Ibid.* 3

²¹² Sara Jahnke, Roland Imhoff and Juergen Hoyer, 'Stigmatization of People with Pedophilia: Two Comparative Surveys' (2014) 44 *Archives of Sexual Behaviour*: 21

Such stigma²¹³ even affects the healthcare sector, where many professionals are reluctant to offer treatment to individuals with pedophilic tendencies. Consequently, most people with these tendencies choose to keep their preferences a secret, which limits their access to therapy and increases their risk of offending due to untreated psychological problems²¹⁴.

1. CSAM- Offences: A Public- Health Perspective

This sixth and final chapter aims to create a more in-depth understanding of people who find themselves attracted to minors, in the hope of clearing away misunderstandings and fears in connection with this sensitive matter. In this context, the importance of a public health approach will be presented, followed by an example of Germany's "Kein Täter werden" programme.

Throughout this research, it has already become evident that criminal justice measures take precedence over prevention in combatting CSAM-related offences. A public health approach offers a more proactive strategy that integrates prevention efforts at multiple levels to address the multifaceted nature of these types of crimes and ultimately reduce their prevalence²¹⁵.

As CSAM-related offences are a critical public health issue with profound consequences for those affected, the impact of these crimes is significant and causes lasting psychological, emotional and social consequences for victims. While criminal justice measures are necessary, they do little to prevent the original offence or address the underlying factors that contribute to its occurrence.

Offenders and people at risk are a heterogeneous group, differing in age, gender and type of offence. Some are involved in the production of CSAM, while others consume or distribute it. Understanding this diversity is important for the development of effective prevention strategies,

²¹³ Such stigma leads to stress, loneliness, and psychopathological symptoms among affected individuals, sometimes culminating in suicidal ideation.

²¹⁴ Sara Jahnke, Roland Imhoff and Juergen Hoyer, 'Stigmatization of People with Pedophilia: Two Comparative Surveys' (2014) 44 Archives of Sexual Behaviour: 32

²¹⁵ Rosemary L Cant, Maria Harries and Christabel Chamarette, 'Using a Public Health Approach to Prevent Child Sexual Abuse by Targeting Those at Risk of Harming Children' (2022) 5 International Journal on Child Maltreatment: Research, Policy and Practice 573: 573

as a one-size-fits-all approach is unlikely to be successful²¹⁶. The motives and risk factors associated with CSAM offences vary greatly from offender to offender. For example, some have a sexual interest in children, while others are motivated by curiosity, pressure or financial gain. Recognising these differences allows for the development of more targeted interventions that address the risk factors and prevent initial exposure to CSAM from developing into a more serious offence²¹⁷.

In general, prevention approaches against child sexual abuse can be divided into three main levels of prevention, which also extend to CSAM²¹⁸:

1. **Primary Prevention:** Primary prevention is targeted at vulnerable populations or groups to prevent CSAM-related offences before they occur, which includes measures to reduce exposure to risk factors, such as public education campaigns to raise awareness of the harms of CSAM, social marketing to change societal attitudes, and programmes to promote healthy sexual development and responsible digital behaviour among young people²¹⁹.
2. **Secondary Prevention:** Secondary prevention centres on identifying individuals or groups at risk of committing CSAM-related offences and intervening before an offence occurs. Programmes such as “Kein Täter werden!” (Engl.: Do not become an offender), which is originally from Germany and will be covered more in-depth in the following

²¹⁶ Stephanie Kewley, Rosemary Mhlanga-Gunda and Marie-Claire Van Hout, ‘Preventing Child Sexual Abuse before It Occurs: Examining the Scale and Nature of Secondary Public Health Prevention Approaches’ (2021) 29 *Journal of Sexual Aggression* 1: 6-7

²¹⁷ Rosemary L Cant, Maria Harries and Christabel Chamarette, ‘Using a Public Health Approach to Prevent Child Sexual Abuse by Targeting Those at Risk of Harming Children’ (2022) 5 *International Journal on Child Maltreatment: Research, Policy and Practice* 573: 576- 579

²¹⁸ Stephanie Kewley, Rosemary Mhlanga-Gunda and Marie-Claire Van Hout, ‘Preventing Child Sexual Abuse before It Occurs: Examining the Scale and Nature of Secondary Public Health Prevention Approaches’ (2021) 29 *Journal of Sexual Aggression* 1: 2

²¹⁹ Rosemary L Cant, Maria Harries and Christabel Chamarette, ‘Using a Public Health Approach to Prevent Child Sexual Abuse by Targeting Those at Risk of Harming Children’ (2022) 5 *International Journal on Child Maltreatment: Research, Policy and Practice* 573: 580

section, provide confidential support to individuals who are concerned about their sexual thoughts and provide them with resources, advice and treatment to prevent offending²²⁰²²¹.

3. **Tertiary Prevention:** Tertiary prevention addresses the needs of individuals who have already committed CSAM-related offences and aims to prevent reoffending and reduce the impact of their actions on victims and society. This includes treatment programmes for offenders, restorative justice initiatives that facilitate healing for victims and offenders, and measures to reintegrate offenders into society in a way that minimises the risk of reoffending²²².

Research suggests that the secondary approach to prevention is often more overlooked in comparison to primary or tertiary prevention. Therefore, *Kewley et al (2021)* call on policymakers to prioritise secondary prevention in the broader public health strategy against child sexual abuse²²³.

There has been increasing interest in secondary public health approaches to the prevention of child sexual abuse in countries such as England, Ireland, the Netherlands, Belgium, Canada, the United States, New Zealand, Australia and Germany, which has led to some progress in this area. Research has shifted to examining professionals' views of offenders, exploring self-management strategies for vulnerable individuals and focusing on targeted interventions for potential offenders. Nevertheless, this area of research is at an early stage, particularly in comparison to the more developed methods of primary and tertiary prevention. Challenges such as limited

²²⁰ Rosemary L Cant, Maria Harries and Christabel Chamarette, 'Using a Public Health Approach to Prevent Child Sexual Abuse by Targeting Those at Risk of Harming Children' (2022) 5 *International Journal on Child Maltreatment: Research, Policy and Practice* 573: 581

²²¹ Stephanie Kewley, Rosemary Mhlanga-Gunda and Marie-Claire Van Hout, 'Preventing Child Sexual Abuse before It Occurs: Examining the Scale and Nature of Secondary Public Health Prevention Approaches' (2021) 29 *Journal of Sexual Aggression* 1: 2-3

²²² *Ibid.* 583

²²³ Stephanie Kewley, Rosemary Mhlanga-Gunda and Marie-Claire Van Hout, 'Preventing Child Sexual Abuse before It Occurs: Examining the Scale and Nature of Secondary Public Health Prevention Approaches' (2021) 29 *Journal of Sexual Aggression* 1: 2 & 19-21

funding, knowledge gaps, methodological limitations and ethical issues make it difficult to improve the effectiveness of secondary prevention approaches²²⁴.

A public health approach to the reduction of CSAM-related crimes is best understood in the longer term through the lens of systems thinking, an approach that stresses the interconnectedness of different factors and levels of prevention. CSAM-related offences do not occur in isolation, but are rather the result of multiple interactions between individual, societal and environmental factors. The systemic approach identifies these interrelationships and seeks to address the root causes of such criminal behaviour through more coordinated and comprehensive approaches²²⁵, such as integrated child protection systems.

Research also suggests that effective programmes require the joint involvement of professionals from different fields, including psychology, psychiatry, social work, law enforcement and public health. By integrating different disciplines, these programmes can address risk factors and provide a more comprehensive support system for at-risk individuals²²⁶.

In this type of approach, each level of prevention is seen as part of a larger system, with actions at one level influencing outcomes at another. For example, efforts to change societal attitudes towards CSAM through public education campaigns (primary prevention) can reduce the demand for CSAM, and therefore the number of people at risk of offending (secondary prevention). Similarly, treatment programmes for offenders (tertiary prevention) can help to break the cycle of reoffending, which in turn contributes to an overall reduction in CSAM offences²²⁷. Overall, preventing CSAM- offences requires more targeted measures that address the specific needs of at-risk offenders. A public health approach generally requires a fundamental shift from

²²⁴ Stephanie Kewley, Rosemary Mhlanga-Gunda and Marie-Claire Van Hout, 'Preventing Child Sexual Abuse before It Occurs: Examining the Scale and Nature of Secondary Public Health Prevention Approaches' (2021) 29 *Journal of Sexual Aggression* 1: 3

²²⁵ Rosemary L Cant, Maria Harries and Christabel Chamarette, 'Using a Public Health Approach to Prevent Child Sexual Abuse by Targeting Those at Risk of Harming Children' (2022) 5 *International Journal on Child Maltreatment: Research, Policy and Practice* 573: 576

²²⁶ Stephanie Kewley, Rosemary Mhlanga-Gunda and Marie-Claire Van Hout, 'Preventing Child Sexual Abuse before It Occurs: Examining the Scale and Nature of Secondary Public Health Prevention Approaches' (2021) 29 *Journal of Sexual Aggression* 1: 6

²²⁷ Rosemary L Cant, Maria Harries and Christabel Chamarette, 'Using a Public Health Approach to Prevent Child Sexual Abuse by Targeting Those at Risk of Harming Children' (2022) 5 *International Journal on Child Maltreatment: Research, Policy and Practice* 573: 577

radical criminalisation to multi-level prevention strategies. Integrating such strategies into a coherent system can lead society to more effective prevention of CSAM-related offences, protect potential victims and support the rehabilitation and reintegration of offenders²²⁸.

2. „Kein Täter werden“: A Benchmark Prevention Programme from Germany

The German-based prevention programme "Kein Täter werden" offers confidential treatment for people who feel sexually attracted to minors and are seeking therapeutic help. Founded in 2005 at the Charité University Medical Centre in Berlin, the network works according to uniform quality standards and offers a comprehensive range of therapeutic services nationwide. The locations of the prevention network are financed by the National Association of Statutory Health Insurance Funds as part of a pilot project and are also funded by the Federal Ministry of Justice for public relations work (Section 65d SGB V)²²⁹.

As of December 2023, the programme had supported 378 people in therapy, 160 in counselling, psychoeducation and/or individual support and 128 in aftercare. The cumulative data for 2023 also shows significant growth: In June, there were 16,225 contact initiations, 5,920 completed diagnoses, 3,041 therapy offers and 2,015 therapy starts. By December 2023, these figures had risen to 17,277 contacts, 6,275 completed diagnoses, 3,211 therapy offers and 2,233 therapy starts. These figures illustrate the high demand for support services for people with pedophilia in Germany²³⁰.

Professor Dr. Klaus Beier, Head of the Institute of Sexology and Sexual Medicine at Charité and of the 'Kein Täter werden' project, explained in an interview the significant impact of the network on the prevention of potential sexual offences, which is reflected in the high number of participants and broad acceptance among the population. The anonymous, free and easily accessible prevention programme successfully reduces the likelihood of sexual offences.

²²⁸ Rosemary L Cant, Maria Harries and Christabel Chamarette, 'Using a Public Health Approach to Prevent Child Sexual Abuse by Targeting Those at Risk of Harming Children' (2022) 5 International Journal on Child Maltreatment: Research, Policy and Practice 573: 586

²²⁹ Kein Täter werden- Präventionsnetzwerk, 'Informationen Für Journalisten' (*Kein Täter werden - Deutschland*) <<https://kein-taeter-werden.de/journalisten/>> accessed 21 July 2024.

²³⁰ Ibid.

Dr. Beier points out the crucial role of psychotherapeutic treatments in this project, highlighting in particular cognitive behavioural therapy²³¹, a method that helps participants to change destructive patterns of thinking and behaviour, strengthen self-control and develop more robust strategies for dealing with their sexual impulses. In addition, specialised therapy for people with atypical sexual preferences, known as dissexuality, is essential. Pharmacological treatments complement the psychotherapeutic approaches.

The Interviewee further stresses the importance of androgen deprivation therapy, in which drugs such as antiandrogens (e.g. cyproterone acetate) or GnRH analogues (e.g. triptorelin) are administered to reduce testosterone levels, thereby reducing sex drive and sexual fantasies and making it easier for those affected to adhere to therapeutic measures.

When asked about the integration of these prevention strategies into national and international framework, Dr. Beier pointed out the need to establish clear guidelines for the treatment and management of people with pedophilic disorders. Sufficient resources must be provided to ensure access to specific therapies and medication. He also advocated the funding of specialist clinics and training programmes for therapists and medical professionals.

International cooperation is an essential part of the exchange of best practices and research findings that contribute to the development of uniform standards. Initiatives such as 'Do Not Offend' can serve as a model for similar programmes worldwide.

The programme itself applies specific risk management strategies, especially when children are directly affected. These include improved monitoring systems to ensure compliance with treatment protocols and early identification of potential relapse risks. A multidisciplinary approach involving psychologists, psychiatrists, social workers and lawyers is key to providing comprehensive care and support for both the victims and the children in question. In addition, the involvement of family members and the wider community in the therapeutic process is also essential to create a supportive environment and educate about risks and protective measures.

Looking to the future, the 'Kein Täter werden' programme aims to continue its establishment in Germany, expand its reach within the European Union and promote international collaboration

²³¹ A psychological treatment that focuses on changing unhelpful thinking and behaviour patterns to improve emotional regulation and develop personal coping strategies

to allow its successful framework to be replicated into other countries. These efforts are supported by various organisations such as the Oak Foundation and the Wilhelm von Humboldt Foundation, whose new androgen deprivation therapy initiative aims to increase the programme's reach and impact. Dr. Beier went on to state that the basic principles of the programme: **anonymity, free access and minimal barriers to entry**, are designed to be universally adaptable and can be implemented even in regions with stricter reporting laws, provided that strict confidentiality is maintained to encourage participation²³².

²³² Interview with Dr. Klaus Beier, by Daniela Figueiredo Moreira, 06.07.2024

Conclusion

After an in-depth analysis of the international legal frameworks on CSAM, specifically those set by the CRC, the OPSC and the Budapest Convention on Cybercrime, this study aimed to test their effectiveness through a two-country analysis. Further, this study went on to highlight the lack of prevention, starting at the root causes of the issue, which are those people who find themselves attracted to minors. Against this background, the following research question was formulated and will be answered in this chapter: *How Effectively Does the International Legal Framework Address Digital Child Sexual Abuse Material from a Child Rights Perspective, and What Challenges and Opportunities Exist for Enhancing Prevention Globally?*

Effectiveness of the International Legal Frameworks, Challenges and Opportunities

The findings have shown that while the CRC, the OPSC and the Budapest Convention provide a foundation for the protection of children at the global level, their effectiveness depends on their implementation regionally. Following this research, it also became abundantly clear that while these treaties are characterised by flexibility, allowing Member States to selectively implement, interpret, and ratify only some treaties, others can be neglected at will.

While constitutes an inherent part of international law, which has always depended on political will and public or civil society pressure, this flexibility can lead to inconsistencies between jurisdictions and may compromise universal applicability. The Budapest Convention, for example, gives the state parties the freedom to set their own age limit for what constitutes a child. South Korea, which has not yet ratified the convention, sets the age limit at 19, whereas in Germany it is 18. Germany also distinguishes between a child and an adolescent, which is in line with the treaties but potentially adds further interpretive layers of complexity.

This flexibility not only leads to legal discrepancies but also to conflicts with other laws within the respective jurisdiction. In South Korea, a person can marry at the age of 17 with parental consent but is legally considered a child until the age of 19. This leads to the contradiction that married couples who may have sexual relations can be prosecuted if they exchange intimate images with their spouse. In Germany, the exception clause allows the legal production and possession of youth pornography with the consent of the young person concerned.

This provision has been widely criticised for allowing potentially exploitative circumstances, particularly in cases where there is a significant age difference or a relationship of dependency or power, such as between a teacher and a student. Although these laws are intended to protect

young people and give them more autonomy over their bodies, they can expose them to greater risks. Similar to South Korea, the law raises constitutional concerns regarding the criminalisation of self-created images of young people, which raises questions of legal certainty and the right to self-determination.

This study has shown that there is no single treaty that comprehensively protects children from all the dangers posed by CSAM. Instead, it appears to be more of a patchwork of different documents, all with similar intentions, but all trying to compensate for gaps or shortcomings in another document. Such a fragmented approach is inefficient in the long run. While it is recognised that each international document is tailored to different cultures and legal systems, such as in South Korea and Germany, it has also been shown that, particularly with an issue as sensitive as child sexual abuse material, such a broad approach may not provide the necessary specificity to address the problem effectively. Instead, consideration should be given to creating legal documents that are tailored to similar legal systems and backgrounds in order to better address the respective challenges and allow for more precise protection of children.

Another issue specifically related to CSAM is the fact that it often still falls under the broader category of ‘child abuse’, such as in Article 34 of the CRC. This broad categorisation can open up loopholes, as it may not fully account for the specific challenges posed by CSAM, particularly regarding the digital environment.

Drafting legal documents is already a lengthy process, and by the time they are finalised, they are already out of date due to the rapid development of the internet, especially when it comes to cybercrime issues. Equally problematic is that such laws, as in Germany and South Korea, often group different forms of CSAM, whether unrealistic and realistic images or newer forms such as AI-generated material or video games, under a single law. For example, the ‘South Korean Act on the Protection of Children and Adolescents from Sexual Offences’ defines CSAM very broadly and includes depictions of children or adolescents, or depictions that can obviously be perceived as such, engaged in sexual acts in various media such as films, videos, game software, images and other content displayed on computers or other communication media. This is not only inadequate but also counterproductive, as treating all these different forms as one problem fails to recognise the challenges that each presents, with realistic images of children being the most serious and harmful.

These inconsistencies in legal frameworks not only create challenges in enforcement but also fail to address the root causes of CSAM, further underscoring the need for a preventive approach.

Combatting CSAM Through More Effective Prevention

The findings have shown that both international and national frameworks prioritise punitive measures rather than preventive strategies to combat CSAM. In other words, this reactive approach focuses on responding to crimes after they have occurred, rather than preventing them in the first place. Even when prevention is mentioned, all international documents focus solely on the child rather than tackling the root causes of the problem by supporting people who are sexually attracted to minors.

One of the key takeaways from this research should be that not everyone who is attracted to minors has the intention to cause harm. Many of them actively seek support and help but face significant barriers due to stigma, social exclusion and legal consequences. These factors often prevent them from accessing the help they need, which increases the risk of offending.

However, this does not mean that the behaviours involved in these types of offences should not be criminalised, but rather highlights the need for equally important proactive measures to prevent such offences from happening in the first place. The aim is to protect children from harm while providing help to those who are at risk, as the well-being of both groups is interlinked.

It is also important to take into account the heterogeneity of offenders and at-risk individuals who do not wish to participate in CSAM, as they differ greatly in terms of age, gender and motivation. This diversity requires tailored measures that address specific risk factors and motivations. For individuals or groups who are at risk of committing CSAM-related offences but who have not yet acted on this impulse, there is an urgent need for policy makers to develop and implement strategies that focus on secondary prevention. The German ‘Kein Täter werden’ programme is a notable example of such an approach, providing confidential support to vulnerable individuals and thereby reducing the likelihood of future offending.

This study encourages a prevention-oriented public health approach to combat CSAM, as pedophilia is a serious public health problem that requires a more neutral understanding within society. A public health approach to the prevention of CSAM-related offending is best understood through systems thinking that recognises the interconnectedness of the various factors that influence offending behaviour. As such, effective prevention requires the collaboration of professionals from different fields, including psychology, psychiatry, social work, law enforcement and public health. Through the integration of specialised know-how from these fields, more comprehensive and targeted support systems for vulnerable individuals can be developed, ultimately protecting children's rights more effectively.

Bibliography

1. National Assembly of South Korea , ‘Act on the Protection of Children and Juveniles from Sexual Abuse ’ (2009)
2. ‘A Survey on Transposition of Directive against Child Sexual Exploitation and Abuse’ <<http://www.enacso.eu/wp-content/uploads/2016/02/A-survey-on-transposition-of-Directive-against-child-sexual-exploitation-and-abuse1.pdf>> accessed 8 September 2024
3. ‘Act on International Judicial Mutual Assistance in Criminal Matters’ (*Klri.re.kr*1991) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=56083&type=part&key=9#:~:text=The%20purpose%20of%20this%20Act> accessed 30 July 2024
4. ‘Act on Promotion of Information and Communications Network Utilization and Information Protection’ (2001)
5. ‘Act on the Protection of Children and Youth against Sex Offences (2008)’ (2008)
6. American Psychological Association, ‘What Is Cognitive Behavioral Therapy?’ *American Psychological Association* (2019) <<https://www.apa.org/ptsd-guideline/patients-and-families/cognitive-behavioral>>
7. Armangau R, ‘Will EU Agree to Scan All Your Images to Combat Child Sexual Abuse?’ (*euronews*20 June 2024) <<https://www.euronews.com/next/2024/06/20/will-eu-agree-to-scan-all-your-online-images-to-combat-child-sexual-abuse>> accessed 7 July 2024
8. ‘Ban on Internet Distribution of Obscene Materials Case’ (*Global Freedom of Expression*2006) <<https://globalfreedomofexpression.columbia.edu/cases/ban-internet-distribution-obscene-materials-case/>> accessed 8 September 2024
9. Blanchard R and others, ‘Pedophilia, Hebephilia, and the DSM-V.’ (*psycnet.apa.org*2009) <<https://psycnet.apa.org/record/2009-04510-009>>

10. Brown GR, ‘Overview of Paraphilias and Paraphilic Disorders - Psychiatric Disorders’ (*MSD Manual Professional Edition* July 2023) <<https://www.msmanuals.com/professional/psychiatric-disorders/paraphilias-and-paraphilic-disorders/overview-of-paraphilias-and-paraphilic-disorders>>

11. Brown GR, ‘Pedophilic Disorder - Psychiatric Disorders’ (*MSD Manual Professional Edition* July 2023) <<https://www.msmanuals.com/professional/psychiatric-disorders/paraphilias-and-paraphilic-disorders/pedophilic-disorder>>

12. Bundesarbeitsgemeinschaft Landesjugendämter, ‘Kinderschutz’ (www.unterstuetzung-die-ankommt.de) <<https://www.unterstuetzung-die-ankommt.de/de/das-machen-wir/fuer-alle/kinderschutz/>> accessed 4 July 2024

13. Bundeskriminalamt, ‘BKA - Kinder- Und Jugendpornografie – Einschlägige Strafrechtsvorschriften’ (www.bka.de) <https://www.bka.de/DE/UnsereAufgaben/Deliktsbereiche/Kinderpornografie/Rechtsvorschriften/kinderpornografieRechtsvorschriften_node.html> accessed 29 May 2024

14. Bundesministerium der Justiz, ‘SGB 8 - Sozialgesetzbuch (SGB) - Achtes Buch (VIII) - Kinder- Und Jugendhilfe - (Artikel 1 Des Gesetzes v. 26. Juni 1990, BGBl. I S. 1163)’ (www.gesetze-im-internet.de/1990) <https://www.gesetze-im-internet.de/sgb_8/BJNR111630990.html> accessed 4 July 2024

15. —, ‘Opferschutz Im Strafverfahren’ (*Bundesministerium der Justiz* 21 June 2023) <https://www.bmj.de/DE/themen/praevention_opferhilfe/opferschutz_strafverfahren/einleitung_opferschutz_strafverfahren/opferschutz_einleitung_strafverfahren.html> accessed 4 July 2024

16. Cant RL, Harries M and Chamarette C, ‘Using a Public Health Approach to Prevent Child Sexual Abuse by Targeting Those at Risk of Harming Children’ (2022) 5 *International Journal on Child Maltreatment: Research, Policy and Practice* 573

17. ChildFund Korea, ‘ChildFund Korea: History’ (www.childfund.or.kr) <<https://www.childfund.or.kr/eng/org/history.do>> accessed 1 August 2024

18. Choi Jeong-yoon, 'Korea to Work with Foreign Agencies to Tackle Child Porn - the Korea Herald' (*The Korea Herald* July 2024) <<https://m.koreaherald.com/view.php?ud=20240701050648>> accessed 7 August 2024
19. Chosun University Hospital, 'Special Care Center' (*Chosun.ac.kr* 2015) <https://hosp.chosun.ac.kr/subpage/?site=hospital_en&mn=452> accessed 1 August 2024
20. Committee on the Rights of the Child, 'Committee on the Rights of the Concluding Observations on the Combined Fifth to Sixth Periodic Reports of Germany*' (2022) <https://unfairtobacco.org/wp-content/uploads/2022/10/CRC_Germany_Concluding-Observations_Sept2022.pdf> accessed 30 August 2024
21. Committee on the Rights of the Child, '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' (CRC 2008)
22. 'Compare South Korea, Canada and Japan :: EU Cyber Direct' (*Horizon*) <<https://eucyberdirect.eu/atlas/country/south-korea/compare/canada/japan>> accessed 14 July 2024
23. 'Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Republic of Korea*' (2019)
24. Convention on the Rights of the Child, 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (2021)
25. Council of Europe, 'European Treaty Series -No. 24' (1957) <<https://rm.coe.int/1680064587>>
26. —, 'European Convention on Mutual Assistance in Criminal Matters' (1959) <https://rm.coe.int/16800656ce>

27. —, ‘Council of Europe: Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data’ (1981) 20 *International Legal Materials* 317
28. —, ‘Explanatory Report to the Convention on Cybercrime’ (2001) <<https://rm.coe.int/16800cce5b>>
29. —, ‘Convention on Cybercrime’ (2001)
30. —, ‘Cameroon, Korea, Sierra Leone and Uruguay Invited to Join the Convention on Cybercrime - Cybercrime - Ww.coe.int’ (*Cybercrime* 9 February 2023) <<https://www.coe.int/en/web/cybercrime/-/cameroon-korea-sierra-leone-and-uruguay-invited-to-join-the-convention-on-cybercrime#:~:text=News&text=On%208%20February%2C%20Cameroon%2C%20Korea>> accessed 14 July 2024
31. —, ‘Korea/Council of Europe Cooperation on Cybercrime: ISCR 2023 - Cybercrime - Ww.coe.int’ (*Cybercrime* September 2023) <<https://www.coe.int/en/web/cybercrime/-/korea/council-of-europe-cooperation-on-cybercrime-iscr-2023>>
32. —, ‘Chart of Signatures and Ratifications of Treaty 224’ (*Treaty Office*) <<https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty-num=224>> accessed 11 August 2024
33. —, ‘Parties/Observers to the Budapest Convention and Observer Organisations to the TCY’ (*Cybercrime*) <<https://www.coe.int/en/web/cybercrime/parties-observers>>
34. —, ‘Protection of Personal Data and Privacy’ (*www.coe.int*) <<https://www.coe.int/en/web/portal/personal-data-protection-and-privacy>> accessed 11 May 2024
35. Defence for Children, ‘Individual Communications under the Optional Protocol (OPIC): Recent Trends and Jurisprudence Highlights - Defence for Children’ (*Defence for Children* 8 March 2021) <<https://defenceforchildren.org/individual-communications-under-the-optional-protocol-opic-recent-trends-and-jurisprudence-highlights/>> accessed 7 September 2024

36. Deutscher Bundestag, 'Deutscher Bundestag - Strafmaß Bei Kinderpornografie Soll Angepasst Werden' (*Deutscher Bundestag* 14 March 2024) <<https://www.bundestag.de/dokumente/textarchiv/2024/kw11-de-mindeststrafen-kinderpornographie-991110#:~:text=Der%20dazu%20vorgelegte%20Gesetzentwurf%20%E2%80%9Ezur>> accessed 23 June 2024
37. deutschland.de, 'Chasing Internet Gangsters: Find out Here How the German Police and Their International Partners Are Combating Cybercrime.' (*deutschland.de* 18 April 2021) <<https://www.deutschland.de/en/topic/politics/fighting-cybercrime-german-police-and-europol>> accessed 7 August 2024
38. Dimoulas V and others, 'Child Pornography in a Cloud Era' (National School of Judges 2018)
39. 'Directive 2011/92/EU of the European Parliament and of the Council' (*Europa.eu* 13 December 2011) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093>> accessed 13 June 2024
40. Directorate-General for Migration and Home Affairs, 'Updated Rules to Protect Children from Sexual Abuse Online - European Commission' (*home-affairs.ec.europa.eu* 6 February 2024) <https://home-affairs.ec.europa.eu/news/updated-rules-protect-children-sexual-abuse-online-2024-02-06_en> accessed 7 July 2024
41. ECLAG, 'Myth Busting & Facts on the Proposed Regulation on Child Sexual Abuse: Addressing the Privacy Concerns with Data and Facts' (2023)
42. Economist Impact, 'Out of the Shadows Index 2022' (2022) <<https://cdn.outoftheshadows.global/uploads/documents/Out-of-the-Shadows-Index-2022-Global-Report.pdf>> accessed 30 August 2024
43. ECPAT, 'Germany - ECPAT' (*ECPAT* 13 September 2021) <<https://ecpat.org/country/germany/>> accessed 7 August 2024

44. ECPAT International, 'ECPAT Project Beacon: An EU-Wide Campaign on Children's Rights to Protection and Privacy in Digital Environments' <[http://a.cs.coe.int/team20/lc/Working_Documents/31st%20meeting%20-%2029%20March-1%20April%202021/ECPAT%20Project%20Beacon%20Over-view%20Feb%202021.pdf](http://a.cs.coe.int/team20/lc/Working_Documents/31st%20meeting%20-%2029%20March-1%20April%202021/ECPAT%20Project%20Beacon%20Overview%20Feb%202021.pdf)> accessed 29 August 2024
45. ECPAT international, 'Country Overview South Korea: A Report on the Scale, Scope and Context of the Sexual Exploitation of Children' (*Ecpat International*2018) <<https://ecpat.org/wp-content/uploads/2021/06/ECPAT-Country-Overview-Korea.pdf>>
46. —, 'How Far Are We to Ensure Child Safety Online in the EU? - ECPAT' (*ECPAT*8 September 2023) <<https://ecpat.org/story/child-safety-online-eu-timeline/>> accessed 27 August 2024
47. —, 'What Is ECPAT Doing to Ensure Child Safety Online in the EU? - ECPAT' (*ECPAT*8 November 2023) <<https://ecpat.org/story/ecpat-child-online-eu/#intro>> accessed 29 August 2024
48. ECPAT International & TACTEENNAEIL/ECPAT South Korea, 'Sexual Exploitation of Boys: South Korea Report ' (November 2021)
49. European Commission, 'Regulation of the European Parliament and of the Council Laying down Rules to Prevent and Combat Child Sexual Abuse' (2022)
50. European Commission , 'Stronger EU Rules to Fight Trafficking in Human Beings Enter into Force' (*Migration and Home Affairs*12 July 2024) <https://home-affairs.ec.europa.eu/news/stronger-eu-rules-fight-trafficking-human-beings-enter-force-2024-07-12_en> accessed 27 August 2024
51. —, 'Frequently Asked Questions - European Commission: Why Is This Legislation Needed?' (*home-affairs.ec.europa.eu*) <https://home-affairs.ec.europa.eu/whats-new/communication-campaigns/euvschildsexual-abuse-campaign-prevent-and-combat-child-sexual-abuse/frequently-asked-questions_en> accessed 7 July 2024

52. —, ‘Frequently Asked Questions - European Commission: Will This Legislation Duplicate the Digital Service Act ’ (*home-affairs.ec.europa.eu*) <https://home-affairs.ec.europa.eu/whats-new/communication-campaigns/euvschildsexual-abuse-campaign-prevent-and-combat-child-sexual-abuse/frequently-asked-questions_en>
53. ‘European E-Justice Portal - Which Country’s Court Is Responsible?’ (*e-justice.europa.eu*) <https://e-justice.europa.eu/content_jurisdiction-85-de-maximizeMS_EJN-en.do?member=1>
54. European Parliament and the Council of the European Union, ‘Directive - 2011/93 - EN - EUR-Lex’ (*eur-lex.europa.eu* 13 December 2011) <<https://eur-lex.europa.eu/eli/dir/2011/93/oj>>
55. Federal Ministry of Justice, ‘Act on International Mutual Assistance in Criminal Matters ’ (*www.gesetze-im-internet.de* 27 June 1994) <https://www.gesetze-im-internet.de/englisch_irg/englisch_irg.html#p0034> accessed 4 July 2024
56. —, ‘German Criminal Code’ <https://sherloc.unodc.org/cld/uploads/res/document/deu/1998/german_criminal_code_html/german_criminal_code.pdf>
57. Gannoni A and others, ‘Preventing Child Sexual Abuse Material Offending: An International Review of Initiatives’ <<https://www.aic.gov.au/publications/rr/rr28>> accessed 27 April 2024
58. Goetze Z, ‘ECPAT Welcomes European Commission’s Proposal to Prevent and Combat Child Sexual Abuse - ECPAT’ (*ECPAT* 17 May 2022) <<https://ecpat.org/eu-proposal-to-prevent-child-sexual-abuse/>> accessed 29 August 2024
59. Góis RVD, ‘The Controversies Surrounding EU’s Online Child Sexual Abuse Law’ (*Centre for European Progression* 18 January 2024) <<https://c4ep.eu/the-controversies-surrounding-eus-online-child-sexual-abuse-law/>> accessed 7 July 2024
60. Greek Safer Internet Center, ‘Legislative CSAM Framework for Country Members of IN-HOPE ’

61. Greijer S and Doek J, 'Explanatory Report to the Guidelines Regarding the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography' (Ecpat 2019)
62. Hilfe- Info für Betroffene von Straftaten, 'Beratungsstellen in Der Nähe Finden' (*Bundesministerium der Justiz*) <https://www.hilfe-info.de/Webs/hilfeinfo/DE/ODABS/odabs_node.html> accessed 11 August 2024
63. Human Rights Watch, 'Abuse of Cybercrime Measures Taints UN Talks' (*Human Rights Watch* 5 May 2021) <<https://www.hrw.org/news/2021/05/05/abuse-cybercrime-measures-taints-un-talks>> accessed 11 May 2024
64. Independent Commissioner for Child Sexual Abuse Issues, 'International and European Law' (*UBSKM*) <<https://beauftragte-missbrauch.de/en/themen/recht/international-and-european-law>> accessed 18 June 2024
65. INHOPE, 'Removing Child Sexual Abuse Material in Germany: A Look behind Some of the Fastest Removal Times in the World' (*Inhope.org* 30 March 2021) <<https://inhope.org/EN/articles/removing-child-sexual-abuse-material-in-germany-a-look-behind-some-of-the-fastest-removal-times-in-the-world>> accessed 7 August 2024
66. Insoll T and others, 'Risk Factors for Child Sexual Abuse Material Users Contacting Children Online' (2022) 1 Journal of Online Trust and Safety
67. Interagency Working Group, 'Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse' (2016)
68. International Centre for Missing & Exploited Children, 'Germany: National Child Protection Legislation' (*International Centre for Missing & Exploited Children* May 2022) <<https://cdn.icmec.org/wp-content/uploads/2022/06/ICMEC-Germany-National-Legislation-May-2022.pdf>> accessed 23 June 2024
69. International Centre for Missing & Exploited Children (ICMEC), 'Child Sexual Abuse Material: Model Legislation & Global Review' (2023)

70. Internet Watch Foundation, 'Germany among Worst for Hosting Sexual Imagery of Children in the EU, IWF Warns' (*www.iwf.org.uk* 26 April 2023) <<https://www.iwf.org.uk/news-media/news/germany-among-worst-for-hosting-sexual-imagery-of-children-in-the-eu-iwf-warns/#:~:text=Amount%20of%20CSAM%20hosted%20in>> accessed 29 May 2024
71. Internet- Beschwerdestelle, 'Startseite' (*Home*) <<https://www.internet-beschwerdestelle.de/de/index.html>> accessed 5 July 2024
72. Interpol, 'Korea (Rep.of): How Interpol Supports Korea to Tackle International Crime' (*www.interpol.int*) <<https://www.interpol.int/Who-we-are/Member-countries/Asia-South-Pacific/KOREA-Rep.-of>>
73. Jahnke S, Imhoff R and Hoyer J, 'Stigmatization of People with Pedophilia: Two Comparative Surveys' (2014) 44 Archives of Sexual Behavior 21
74. Kamecke U and Körber T, 'Technological Neutrality in the EC Regulatory Framework for Electronic Communications: A Good Principle Widely Misunderstood' (2008)
75. Kang SR, Kim S-J and Kang K-A, 'Effects of Child Sexual Abuse Prevention Education Program Using Hybrid Application (CSAPE-H) on Fifth-Grade Students in South Korea' [2020] The Journal of School Nursing
76. Kein Täter werden- Präventionsnetzwerk, 'Informationen Für Journalisten' (*Kein Täter werden - Deutschland*) <<https://kein-taeter-werden.de/journalisten/>> accessed 21 July 2024
77. ———, 'Informationen Für Journalisten: Statuszahlen' (*Kein Täter werden - Deutschland*) <https://kein-taeter-werden.de/journalisten/#awb-open-oc__1232> accessed 21 July 2024
78. Kewley S, Mhlanga-Gunda R and Van Hout M-C, 'Preventing Child Sexual Abuse before It Occurs: Examining the Scale and Nature of Secondary Public Health Prevention Approaches' (2021) 29 Journal of Sexual Aggression 1
79. Klicksafe, 'Klicksafe.de: Die EU-Initiative Für Mehr Sicherheit Im Netz' (*klicksafe.de* 9 June 2024) <<https://www.klicksafe.de/>> accessed 5 July 2024

80. Kommission für Jugendmedienschutz, 'Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and in Telemedia' (2016)
81. Korean Legislation Research Institute, 'Statutes of the Republic of Korea: Act on the Promotion of the Use of Information and Communication Networks and the Protection of Information' (*Klri.re.kr*2016) <https://elaw.klri.re.kr/eng_service/lawView.do?hseq=38422&lang=ENG> accessed 7 August 2024
82. Kwesi Aggrey C, 'Examining the Main Provisions, Strengths and Weaknesses of the United Nations Convention on the Rights of the Child (UNCRC)'
83. Legal Information Institute , 'ASHCROFT v. FREE SPEECH COALITION' (*LII / Legal Information Institute*2001) <<https://www.law.cornell.edu/supremecourt/text/00-795>> accessed 10 May 2024
84. Magaldi D and Berler M, 'Semi-Structured Interviews' [2020] *Encyclopedia of Personality and Individual Differences* 4825
85. Members' Research Service, 'Combating Child Sexual Abuse Online [EU Legislation in Progress][Policy Podcast]' (*Epthinktank*6 December 2022) <<https://epthinktank.eu/2022/12/06/combating-child-sexual-abuse-online-eu-legislation-in-progress/>> accessed 7 July 2024
86. Myung-kil Ji, 'UNICEF and Korea to Strengthen Collaboration on Child Rights Issues' (*Unicef.org*2024) <<https://www.unicef.org/gok/stories/unicef-and-korea-strengthen-collaboration-child-rights-issues>> accessed 29 July 2024
87. Netkova B and Mustafa AQ, 'International Legal Standards in Combating Child Online Sexual Abuse and Exploitation' (2021) 6 *Journal of Liberty and International Affairs*, Institute for Research and European Studies - Bitola 111
88. Office of Public Affairs: U.S Department of Justice, 'South Korean National and Hundreds of Others Charged Worldwide in the Takedown of the Largest Darknet Child Pornography

Website, Which Was Funded by Bitcoin' (*Justice.gov* 16 October 2019) <<https://www.justice.gov/opa/pr/south-korean-national-and-hundreds-others-charged-worldwide-takedown-largest-darknet-child>>

89. Open Net Korea and Kim K, 'Development in the Definition of Child Pornography in the Republic of Korea'
90. Pinggen DrA, 'Extension of Interim Regulation to Prevent and Combat Child Sexual Abuse' (*euclid.eu* 19 December 2023) <<https://euclid.eu/news/extension-of-interim-regulation-to-prevent-and-combat-child-sexual-abuse/>> accessed 7 July 2024
91. Pitaksantayothin J, 'A Comparative Study of Child Pornography Laws in the Republic of Korea and in Thailand against the Background of International Legal Frameworks' (nicolaus Copernicus University 2023)
92. Poff J, 'The German Government Is Softening Its Child Pornography Laws - Washington Examiner' (*Washington Examiner* 21 May 2024) <<https://www.washingtonexaminer.com/opinion/beltway-confidential/3012171/german-government-softening-child-pornography-laws/>>
93. 'Polizeiliche Kriminalstatistik 2023' (2023) <https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/themen/sicherheit/pks-2023.pdf?__blob=publication-File&v=3#:~:text=Im%20Berichtsjahr%202023%20wurden%20bundesweit,um%209%2C3%20Prozent%20h%C3%B6her.> accessed 30 August 2024
94. Rodriguez K, 'First Draft of UN Cybercrime Convention Drops Troubling Provisions, but Dangerous and Open-Ended Cross Border Surveillance Powers Are Still on the Table' (*Electronic Frontier Foundation* 20 July 2023) <<https://www.eff.org/deeplinks/2023/07/first-draft-un-cybercrime-treaty-drops-troubling-provisions-dangerous-and-open>> accessed 10 May 2024
95. Rojszczak M, 'The Digital Services Act and the Problem of Preventive Blocking of (Clearly) Illegal Content' (2023) 3 *Institutiones Administrationis* 44

96. Romney B, ‘Screens, Teens, and Porn Scenes: Legislative Approaches to Protecting Youth from Exposure to Pornography’ (2020) <<https://lawreview.vermontlaw.edu/wp-content/uploads/2021/01/04-Romney.pdf>> accessed 26 June 2024
97. Safer Internet Day, ‘Together for a Better Internet’ (*Safer Internet Day*) <<https://www.saferinternetday.org/de/>> accessed 5 July 2024
98. Salter M and Wong T, ‘Parental Production of Child Sexual Abuse Material: A Critical Review’ [2023] *Trauma, Violence, & Abuse*
99. ‘SGI - Academic Seminar on Child Abuse Prevention in South Korea’ (*SGI Action for Peace*) <<https://sgi-peace.org/latest/academic-seminar-on-child-abuse-prevention-in-south-korea>> accessed 1 August 2024
100. Shim WS, ‘New Public-Centered Child Protection System in Korea’ (2023) 66 *Clinical and Experimental Pediatrics* 179 <<https://e-cep.org/upload/pdf/cep-2023-00150.pdf>> accessed 22 October 2023
101. Sorbán K, ‘An Elephant in the Room—EU Policy Gaps in the Regulation of Moderating Illegal Sexual Content on Video-Sharing Platforms’ (2023) 31 *International Journal of Law and Information Technology* 171
102. Stanford University, Stanford and California 94305, ‘Investigation Finds AI Image Generation Models Trained on Child Abuse’ (*cyber.fsi.stanford.edu* 20 December 2023) <<https://cyber.fsi.stanford.edu/news/investigation-finds-ai-image-generation-models-trained-child-abuse>> accessed 15 March 2024
103. Statutes of the Republic of Korea, ‘Extradition Act’ (*Klri.re.kr* 1988) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=56109&type=part&key=9#:~:text=Pursuant%20to%20the%20provisions%20of> accessed 29 July 2024
104. ‘Statutes of the Republic of Korea: Act on Special Cases Concerning the Punishment of Child Abuse Crimes’ (*Klri.re.kr* 2014) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=62078&type=part&key=9> accessed 1 August 2024

105. Stelzmann D, Jahnke S and Kuhle LF, ‘Media Coverage of Pedophilia and Its Impact on Help-Seeking Persons with Pedophilia in Germany—a Focus Group Study’ (2022) 19 International Journal of Environmental Research and Public Health 9356
106. Tacteen Naeil – ECPAT Korea, ‘Ecpat South Korea’ (*ECPAT*) <<https://ecpat.org/country/south-korea/>> accessed 1 August 2024
107. ‘The Act on the Protection of Children and Youth against Sex Offences’ (*Klri.re.kr*2008) <https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=33019&type=part&key=16#:~:text=The%20purpose%20of%20this%20Act> accessed 27 July 2024
108. The Committee on the Rights of the Child, ‘General Comment No. 13 (2011) the Right of the Child to Freedom from All Forms of Violence’ (2011) 1 The International Journal of Children’s Rights
109. The German Games Industry Association, ‘Youth Protection Act’ (*game*) <<https://www.game.de/en/protection-of-minors/#:~:text=The%20Protection%20of%20Young%20Persons>> accessed 5 July 2024
110. The National Center for the Rights of the Child, ‘National Center for the Rights of the Child - Child Abuse Prevention and Child Protection’ (*www.ncrc.or.kr*) <https://www.ncrc.or.kr/ncrc_en/cm/cntnts/cntntsView.do?mi=1240&cntntsId=1207> accessed 1 August 2024
111. UNICEF, ‘Implementation Handbook for the Convention on the Rights of the Child’ (*Unicef*September 2007) <<https://www.unicef.org/lac/media/22071/file/Implementation%20Handbook%20for%20the%20CRC.pdf>>
112. ———, ‘Regulation of Child Online Sexual Abuse Legal Analysis of International Law & Comparative Legal Analysis’ (2016) <<https://respect.international/regulation-of-child-online-sexual-abuse-legal-analysis-of-international-laws-comparative-legal-analysis/>> accessed 27 April 2024

113. ———, ‘Four Principles of the Convention on the Rights of the Child’ (*Unicef.org* 24 June 2019) <<https://www.unicef.org/armenia/en/stories/four-principles-convention-rights-child>> accessed 15 May 2024
114. United Nations, ‘Convention on the Rights of the Child’ (1989)
115. ———, ‘Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography’ (2000)
116. ‘United Nations Treaty Collection: Convention on the Rights of the Child’ (*treaties.un.org* 1989) <https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4> accessed 18 May 2024
117. ‘United Nations Treaty Collection: Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography’ (*treaties.un.org* 2000) <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&clang=_en> accessed 18 May 2024
118. UNODC, ‘Background Paper towards Zero an Initiative to Reduce the Availability of Child Sexual Abuse Material on the Internet ’ (2023)
119. Welters M, ‘„Kein Kind Alleine Lassen“ – Missbrauchsbeauftragter Startet Soforthilfe-Aktion’ (*jugendhilfeportal.de*) <<https://jugendhilfeportal.de/artikel/kein-kind-alleine-lassen-missbrauchsbeauftragter-startet-soforthilfe-aktion>> accessed 5 July 2024
120. WeProtect Global Alliance , ‘Global Threat Assessment 2023 Data - WeProtect Global Alliance’ (*WeProtect Global Alliance* 4 October 2023) <<https://www.weprotect.org/global-threat-assessment-23/data/>> accessed 19 February 2024
121. Witting DrS, ‘Child Sexual Abuse in the Digital Era : Rethinking Legal Frameworks and Transnational Law Enforcement Collaboration’ (11 June 2020)

122. Yeung GB, 'South Korea Has Jailed a Man for Using AI to Create Sexual Images of Children in a First for Country's Courts' (*CNN* 28 September 2023) <<https://edition.cnn.com/2023/09/27/asia/south-korea-child-abuse-ai-sentenced-intl-hnk/index.html>>
123. Zahid Shahab A, 'Poverty, Globalization, Social Customs & South Asian Children in Prostitution' (2005) <<https://www.humiliationstudies.org/documents/AhmedAsianChildrenProstitution.pdf>> accessed 15 April 2024

Appendix 1

Appendix 1.1: Dr. Dorothea Czarnecki

Documentation Sheet

Date of the Interview:	16/01/2024
Place of the Interview:	Zoom Meeting
Duration of the Interview:	37:26
Interviewer:	Daniela Figueiredo Moreira
Interviewee:	Dr. Dorothea Czarnecki
Current Occupation of the Interviewee	Digital Forensic Analyst and Child Protection and trafficking Expert
Working in this Occupation since:	1 ½ years in the field of digital forensics
Employer:	Forensik.it GmbH
Professional field:	Child Protection and trafficking

Interview Guide

Background

1. Can you provide an overview of your experience and expertise in the field of child protection and human rights, particularly in addressing CSAM?

Legal Framework analysis

2. What are the key principles within the international legal framework relevant to combating CSAM?
3. Can you highlight any gaps or limitations in the current legal framework that hinder effective prevention and protection efforts?
4. Are there specific legislative measures that you believe would contribute to better prevention and protection globally?

Preventive Education: CSAM

5. From a preventive point of view, what opportunities exist for incorporating education and awareness programs into international efforts against CSAM?
6. What policy recommendations would you propose to enhance the international legal framework's effectiveness in combating CSAM?

Emerging Trends: CSAM Responses

7. Given the evolving nature of technology and online platforms, how do you foresee the challenges and opportunities for the legal framework in the future?
8. Are there emerging trends that could impact the landscape of CSAM, and how should legal responses adapt?

Transcription

00:12:24

1: My research question, so far, that I have already told you about, is how does the international legal framework address Child sexual abuse material (CSAM) from a human rights perspective and what challenges and opportunities exist for enhancing prevention globally. So, my first question to you as a human rights expert is, can you provide an overview of your experience and expertise in the field of child protection and human rights, particularly in addressing CSAM?

00:12:47

IP: Sure. So, I come from the NGO field, working for ECPAT International mainly. Specifically in the protection of children from sexual exploitation, including CSAM, child trafficking, and exploitation in travel and tourism context. I then switched to IT- Forensic a year and a half ago, to become an IT- Analyst, to understand about the tech parts of the topic. I mean the interest into learning more about and actually see some cases and how to work on them came from my role of directive programs with ECPAT international, where I was heading also the technology and child online protection department. And in the year 2021 we lobbied a lot on European Institution level on the digital services act to reach the solution, the Interim derogation, for the use of automated tools to continue. But I actually had no idea how automated tools actually function, and how the, not from onlyun a theoretical level but what implications CSAM cases bring along on national level and practice. So, this is why I wanted to know and learn more about this, and this is where I am now.

00:14:41

1: Amazing. That is very impressive. In your view, what are the key principles within the international legal framework relevant to combating CSAM?

00:14:53

IP: There is not too much info, I mean, there should be enough of what is, from the core principles of course, like the mother of all international instruments is the UN- Child Rights Convention and the optional protocol which should cover, I mean, in the sense in formulating such international treaties and the challenges. How do you cover the current situation and stay open in the wording to cover also possible future developments, which is a problem which you see now for instance in the Lanzarote convention, which is specifically against the sexual abuse

and sexual manipulation of children, which was, you know when it came into force like 10 years ago nobody had any idea or could not foresee how much tech possibilities would impact the life of children and youth. So, the international bodies responsible for the monitoring of the implementation on the national level of such treaties struggle a lot also, with the newer developments, with how do we include everything? Is everything actually covered under the provisions and how do we avoid, for instance, the criminalisation of teenagers when they experiment, because it is part of their normal upbringing, their normal life, an extension of their real life into the digital world and how do you prevent certain states also, and their tendencies of criminalisation and hardcore shutting down everything, which is part in the social rights of children to experiment in digital spaces of course. So yeah basically, you have the key instruments covering child protection in general, but, not too many legal tools to focus specifically on CSAM, which, I mean depending on what focus you put on CSAM, if you want to be, okay, the prevention part, criminalisation that is of course part of everything, international cooperation is a huge thing. You have now also the second protocol to the cybercrime convention which is great, because it is about e-evidence and the sharing of e-evidence, strengthening the international cooperation, which is one of the things that we will probably discuss a little bit later in your questions.

00:18:10

1: Yes, so my next question would be from a preventive perspective, what opportunities exist for incorporating education and awareness programs into international efforts against CSAM?

00:18:25

IP: Yeah, this would be, I mean, we always sound like a broken record from the child protection community because something like prevention is the first thing that falls short, budgets for the core workers are not enough, prevention is not seen as core work BUT you need to cooperate education programs and awareness programs, also on digital literacy, on online safety, on responsible internet use and it- ((incomp)). I will always wonder why they really struggle in understanding how the thinking of, for instance, ((incomp)) schools goes.

Schools demand for every student to have a tablet by the age of 10, but do they do anything about online safety? Nothing. And you don't even need, you can do online safety trainings without being connected to any device, without nothing in front of you. It's about the core principles of how you behave, what can happen, who is responsible for what happens and how do you respond and react, and everything is very much connected to the principles of prevention

of child sexual abuse that developed, you know, the community developed twenty years ago, there are of course good and bad examples, you know, who can do what to you, how do you recognise false offers, everything like what is privacy in an offline world, what does privacy mean and how can you respond to the digital world. Everything is very, the core principles of prevention are known, but not very much implemented in the digital spaces I would say.

00:20:35

1: (Unplanned question) Can I ask you one question that is not included in the prepared questions? Why do you think is that? That there are no programs on teaching children how to use the internet [because]

00:20:48

IP: No, no, there are programs, it's just not, I think it is not a standard, it always depends on the enthusiasm and dedication of an individual, a teacher or someone. I think because so many people are really scared of technology and *the internet*, like, I don't actually know what it is. For some parents the Internet means Facebook, or they can send out an email or something, you know. Then there are limited understandings in many people, from talking to parents for instance or educators, they have the fear of looking stupid, they don't want to admit that they struggle with it, with whatever new apps there might be. Instead of having more conversations that it IS something new, not everyone grew up with this, but it is the reality and if you want to protect your child you need to know what is going on. That doesn't mean that you need to be involved in online games because of this. This is also the other part that is not being discussed in the legal spheres but in the social service spheres, is the right of children for adult free online spaces. So, you need protection, and supervision, and monitoring on one hand but on the other hand, same as in the offline world, teenagers, children not so much, but they need spaces where they are completely adult free in order to explore and experiment and stuff like this. And also, it is like, how do you find a balance in this? But I do believe that it comes a lot from fear, and misunderstanding of it being very difficult, thoughts like I never learned about that, I don't know what everything means, I don't know what my child is doing there being a very realistic things to think about. It's like, either I prohibit everything, and then the child, of course, is for sure going to find a way how to use It anyway, but then the trusted person, the trusted adult, is missing in case something happens. I mean for parents and others, there is a new, I don't know what it's called, it is the European strategy for a better Internet for kids, you also have, you know, the safer internet forum, you have a lot of safe- net or kids- safe and all kinds of websites

providing good information for adults in different roles like teachers, parents or whoever, but it's still not comprehensive. So, this is the problem, and the gap is getting bigger. Maybe the discussions starting in the year 2023 around AI and Chat GPT might be a littler push forward into the digital literacy of schools for instance, because now they have to deal with it somehow. Children will use technology to explore or to cheat maybe, whatever, so this could be something that gives us hope, that teachers and schools, even though they don't want to, that they have to put in the effort to learn more about this area that will only increase in relevance.

00:24:50

1: Yes. But I also think the digital world is evolving in a way that, I mean, my mom, for example, she uses Duolingo and that's it. Yeah. She, that, she doesn't know how to handle it, so, even if my dad knows how to use Facebook and Instagram and everything, with Snapchat and other apps, it stops, like, it stops, they don't know. I think it's a generational thing, definitely.

00:25: 24

IP: It is, it is, but in, in, you know, fair enough, I mean, I, for sure, like, half of things that are out there, I have no idea about and I, you know, I also, I don't have the intrinsic wish to, to spend like a lot, you need a lot of time to learn all those things and to keep up to date, but like, the basic understanding and the mental barrier, the emotional barrier, I think this would be very necessary to overcome, to say, hey, okay, we want to learn, there are ways, you know, there, there can be, like, you, nobody, I mean, every parent, basically, is, like, in the same boat, so you can, you can combine efforts, you can do stuff, you know, so schools would, you know, everything. You know, everyone wants everything from schools, but this is something, actually, that is, I would say, is the core responsibility, it's not just something that only nerdy teenagers do, and, you know, techniques, but, but it is, and it, you know, you see, you have research saying that every child who goes online runs a 100% risk of meeting a potential perpetrator, just depends on the behavior of the child, in many cases, whether or not something happens, no?

00:26:35

1: It's true, yeah, I don't know, it's very relevant, but we, we learn a lot of stuff in school that's not, you will not use it in the future, but this exact stuff that you, you will [need]

00:26:49

IP: And also, like, for that, I mean, we could, you could write a whole, you know, book about schools, student school curricula only, because also, how do you, we leave, and I think this is outrageous, actually, that we leave children alone with all those tech possibilities, without teaching them how do you recognize if something is, like, false and fake information, where do they, we know, where should they take the knowledge from, yeah, so, it, it's, you know, schools would really need, like, a, like, a substantial rethinking of the curricula, which we know is not going to happen anytime soon in Germany, at least not

00:27:32

1: It's needed, but my next question would be, what policy recommendations would you propose to enhance the international legal framework's effectiveness in combating child sexual abuse material?

00:27:43

IP: Well, I think, internationally, what we need would be, like, a more, like, a standardisation of definitions, this is also, sometimes, you know, international legislations, then, you see variations, starting from, what is the, the age of legal consent, you know, what is, is, is a child, yes, and with that comes along, of course, different penalties, specifically dealing with topics that are not, I mean, cross, multiple times cross-border, like internet-related crimes, you also, you need to strengthen cross-border collaboration, which is, it's really, it's any, the principles of any international crime, but in practice, super difficult still. It's difficult due to, to the lack of resources, of law enforcement, lack of English-speaking officers, I mean, as simple as that, or sometimes you don't have enough, there's no money in some countries for translators, for instance, in court, So cases are not being investigated further, but you will need when it comes to, to CSAM- related cases, you will need to incorporate more tech-driven solutions I would say for the detection and removal because you know like I don't have to tell you that we as IT forensics know the sheer amount of, of data that we need to process it's just too much I mean it's impossible that in some federal states in Germany they need five years for a standard case this is just you know it's stupid it's not possible so internationally this is going to be needed and for that Because we know that, no police is going to become, like, overnight, the, even not overnight, but with time, they will not become, they are police officers, they are not IT geeks, and, we can't expect from them, to have all the knowledge, but for that, companies, and they,

the model of, private company, supporting the state, in, in the execution of, of the responsibilities, like, Forensic IT, does, this, the cooperation, with the private sector, will be much more important, and this should be enhanced, urgently, because the gap, is, is, you know, is growing, dramatically, so, this would be something, that I, would see, You, yeah, but, yeah, it's, I mean, you have, you have, for the harmonisation of legal frameworks, you have promising examples like the INHOPE, they call it the INHOPE scheme, they have the global classifier universal classification scheme, for instance CSAM which is something fairly new that might work and you know we don't know. But there are I think about solutions from different aspects it's just a lot of resistance also from state authorities in many cases how to implement this would mean for their own work that everything is so expensive If everything, you know, if, if, changes, take too long, it's not, politically interesting, for anyone, because, if you propose a change and implement it within the four years, which is like the political cycle, then, why would you do this, basically, you know, so, it's a bit of a complication, but, yeah, I think the, the international cooperation, harmonisation of legislation, would be, would be relevant, and the use of tools and technology-based solutions.

00:32:13

1: Yes, I think so, I agree, it's. I think, nobody looks at the intersections, like, it's not just tech, it's also politics, it's also socio, it's whatever, it's psychology, it's everything.

00:32:25:

IP: Yeah, exactly, what is, I think, what, the, sometimes, when you see, the super interesting, I mean, it's a very exciting time, that we live in, you know, like, with tech solutions, and everything, it's crazy, you know, whatever is possible, unfortunately, also, in the negative, sphere, but sometimes, you see those discussions, also, during, international, international conferences, and people, maybe, want to believe, that there is, like, a tech solution, for societal problems, and this is, just, it's not the case, you will never, solve this, it, it needs to be, as a supportive element, but this will not solve, the core aspects of, why do such things happen, and in the context of CSAM, and CSAM regulations, and CSAM prevention, also, what nobody, hardly anyone, talks about, how do we prevent those cases, from happening, in the first place, and how can you help people with pedophilic inclination, and specifically, teenage offenders, from you know going, down the path of abuse, basically, and this is something so politically unpopular, and it gets, it also, the tech component of those discussions, just, you know, buries, everything else,

00:33: 50

1: I think, sometimes, so, yeah, but people don't feel, like, they don't feel involved, because, it's not their field, so, it's like, no, I studied politics, I don't have anything, to do with that, and the people, who study tech, it's like, oh, no, that's too, too political, exactly, yeah, and they're, kind of, scared, to delve into those other fields, which, yeah, yeah,

00:34:15

IP: And sometimes, you also, you have, I mean, the, I do believe, in the multidisciplinary approach, in many things, because, I don't think, like, there is no problem, in the world That could be solved, alone, when we talk about, like, relevant problems, for society. But, sometimes, it's really, like, the, the cover-up, for a lot of bullshit, and in effectiveness; and now, when you see what happens with the decision of META, they just stopped scanning for CSAM, and they're still part of online well, they are still part of most multidisciplinary roundtables that exist in the child protection, slash, tech, slash, political world, because, you're, like, out, you know. I mean, you took a decision, you don't want to protect children, because, you just really freaking stop scanning, and then you say what we can't see we can't report, oh, and this is what you know, so stop the bullshit, and really like spend I think international communities like also we protect global alliance for instance you know which is probably like the coalition for that they would need to be brave enough and like for their own credibility say sorry either you're in because you're trying to protect children in the digital spheres on your platforms or you're so not interested which you clearly shown so you have no space. For those discussions, because what do you want to contribute, nothing,

00:35:52

1: But it's a business at the end of the day, like that's what I realised in our work, work field it's a business. This whole child pornography thing is a huge money machine probably

00:36:08

IP: Yeah but also I tell you like from the realistic view and you know I love the child protection field and I will be part of this you know as long as I decide not to, but it's also a business I mean and there are many egos connected to this and many people just try to so to save their own job without really being too much interested. Into the impact of their work and their the responsibilities that they have to improve the protection of children and to, to really, guarantee child

rights so you know sometimes it's a bit like yeah you know only because you, you're doing something good doesn't mean that that you actually achieve anything

Appendix 1.2: John Carr

Documentation Sheet

Date of the Interview:	12/07/2024
Place of the Interview:	Zoom Meeting
Duration of the Interview:	33:13
Interviewer:	Daniela Figueiredo Moreira
Interviewee:	Mr. John Carr
Current Occupation of the Interviewee	- Secretary, UK's Children's Charities' Coalition on Internet Safety - Senior Technical Adviser, ECPAT International - Visiting Senior Fellow, London School of Economics and Political Science - Consultant to the Council of Europe and the International Telecommunication Union
Professional field:	Children's Internet Safety and Security

Interview Guide

1. As Secretary of the UK's Children's Charities Coalition on Internet Safety and a Senior Adviser to ECPAT International, what do you see as the most significant challenges in harmonizing international laws and practices against online child exploitation?
2. Considering your experience advising internet companies and international bodies on child safety, how do you assess the role of emerging technologies in both propagating and preventing Online Child abuse?
3. In your advisory roles, you have probably been confronted with various approaches to preventing the exploitation of children on the internet. Could you tell us which prevention strategies or models you consider to be particularly effective in combating the exploitation of children online?
4. From your work with the European NGO Alliance for Child Safety Online and the UN, what key elements do you believe should be included in international policies to more effectively tackle CSAM?
5. You have been a prominent advocate for online age verification systems. How do you balance the need for privacy with the imperative of ensuring safety, especially when it comes to age verification to prevent access to harmful content?
6. Given the rapid advancement of technologies such as AI and machine learning, what legal adaptations are needed to ensure an effective fight against the production and proliferation of CSAM? What impact do you think these technologies will have on the future legal framework?
7. How important do you think public awareness and education are in the fight against online child exploitation?
8. What roles should governments, tech companies, and NGOs play in the evolving landscape of online child safety?

Transcription

00:03:14

1: As Secretary of the UK's Children's Charities Coalition on Internet Safety and a Senior Adviser to ECPAT International, what do you see as the most significant challenges in harmonizing international laws and practices against online child exploitation?

00:03:40

IP: Well that is a very easy question because the answer is very obvious, the biggest challenge is the weakness of international institutions, complicated currently by the geopolitical situation that we face in the world. So, I think even the ability to agree a set of words would be complicated now, much less agree on how to implement them, hence, and there are no real mechanisms in existence in any event, which help in the field of children's rights. There are rather, such mechanisms that exist have no real power, nobody is afraid of them.

00:04:30

1: Okay perfect, so considering your experience advising internet companies and international bodies on child safety, how do you assess the role of emerging technologies in both propagating and preventing Online Child abuse?

00:04:44

IP: Huge, absolutely huge. I mean that is the critical question of how can we use the technical knowledge that we now have to enhance human rights in general, children's rights in particular, that includes their right to safety and protection, and that is the challenge. But, what we now know is that the historic approach, that the United Nations and the Council of Europe and everybody adopted, that of self-regulation, simply hasn't worked, it was wholly illusory.

I am not saying it was, but it was inevitable I guess, because the internet as it came from nowhere quickly, and nobody was really sure exactly what it was, certainly politicians weren't. They did not want to step in and regulate too early, in case they kill the golden calf or kill the golden goof, and they trusted these young people from California who look like hippies with a benevolent world mission. But that turned out to be a gigantic error

00:06:05

1: Interesting view. From your work with the European NGO Alliance for Child Safety Online and the UN, what key elements do you believe should be included in international politics to more effectively tackle CSAM, online specifically?

00:06:23

IP: Well, the biggest single challenge at the moment is how to address the question of the emergence of easily available strong encryption, particularly in messaging environments. And, because that is clearly where lots of issues (laughing), it is a threat to the rule of law, right?

That is the first and most obvious point, about the way in which strong encryption as has emerged, there is no international legal instrument, there is no treaty, there is no national law in every single jurisdiction, which says that privacy is an absolute right, nowhere in the world does it say that, and yet, because of decisions made by private entities, that companies who will in search for profits, or private individuals who have a particular world view or particular political outlook have decided, in effect, to make privacy an absolute right. Courts in the United Kingdom, courts in the United States are issuing subpoenas, requesting evidence to be produced, and it cannot be produced. So the courts in law enforcement have been rendered impotent in relation to quite substantial areas of activity on the Internet, so that is not just a threat to children, although it is a major threat to children, it's a threat to the rule of law in general, and that is a very worrying sign.

00:08:03

1: Indeed it is very hard to balance those two, privacy and fundamental rights

00:08:14

IP: But it is not a fundamental right, privacy is not a fundamental right. It is one right amongst many. But the point is, it has been elevated to, by the decisions of private entities, not public entities, private entities have decided to make privacy the number one right, which cannot be balanced with other rights. But we have a very good example, a concrete example, it is not a theoretical question, we have a real-world example of it. If you look at last years figures for example, if you look at NCMEC in the United states, you will see, you will see that google reported 1,7 million I think it was instances of CSAM, which is found on its platform. Instagram I think reported 11,5 Million or something like that, and Facebook/ Messenger reported 17 Million. How many did Apple report in the same period? 267. Not 267 thousand, no 267. And

last year was not a unique year, or a one-off year, every year for which records have been available, apples reported discovery or availability to locate and delete illegal content has been pittyfully low. Why? Because they already use strong encryption, and, but there is no reason to imagine that Apple is any different in terms of its user base from Facebook, messenger, Instagram or Google platforms. So, and the disparity can only be explained by the verge of the fact that Apple cannot see any of the content being exchanged or stored on its platforms because it already uses strong encryption. And apple itself recognized this in a statement they made two years ago, they even came up with a solution to deal with it, but then they abandoned that solution under pressure, principally from the privacy (law?) in the United States.

00:10:35

1: Interesting. Out of curiosity, what do you think about the new upcoming EU regulation?

00:10:36

IP: Well, it is a dead duck. The Belgium Presidency withdrew it, from the agenda of the last meeting of their presidency, because there was not enough support in the room for it. So, Germany and Poland were the main protagonists opposing it. So, it was withdrawn. So it is now in the hands of the Hungarian presidency, and nobody is very optimistic about what will happen under the Hungarian presidency in this area. Nobody thinks that they will prioritize this issue, and certainly not in a helpful way, which means very likely it will fall to the Polish presidency, cause they come after Hungary to deal with this. And that's not good, because Poland were the country that opposed the Belgium proposal in the first place. And, I spoke at a seminar in Warsaw last year, September of last year, so not very long ago on this very point, about strong encryption. I was up against the University professor of mathematics, and every time he spoke about the value of encryption he spoke about the dictator, that is a direct quote, every single he mentioned the purpose of strong encryption, it was to protect people from the dictator. And of course, you know, if you look at Germany's history with the nazis and then the (Stasi?) in East Germany, if you look at Poland's history under communism, it is not hard to work out why they feel the way they do. But we cannot let pre-internet history condemn children or the world to a nightmarish internet future. But that seems to be the way things are going.

00:12:33

1: So, you have been a prominent advocate for online age verification systems. How do you balance the need for privacy with the imperative of ensuring safety, especially concerning age verification to prevent access to harmful content?

00:12:51

IP: Yeah, okay. This is a very good question. Privacy is a very very important right, absolutely. And it certainly comes up in relation to age verification, but we have privacy laws that can deal with this. In the United Kingdom, we have privacy laws, which for these purposes really are identical to those in the European Union, not exactly, but they are ideally. And our privacy commissioner has approved a number of different ways in which age verification can be done in a way which is privacy-preserving. In Germany, the relevant, one of the relevant regulators has approved, I think about 20 different methods of doing age verification, and Germany, no privacy regulators in Germany would approve anything, unless they were completely happy about the privacy dimensions. So, you know, it is possible to construct scenarios where everything breaks down, and becomes a threat to privacy, in theory, that is possible you know, but from a practical point of view, there are lots of things that can be done to make that an extremely remote possibility

(Smalltalk)

00:15:28

1: So, with the rapid advancements in technology such as AI and machine learning, what legal adaptations are necessary to ensure effective combat against the generation and distribution of CSAM? How do you foresee these technologies impacting future legal frameworks?

00:15:45

IP: I think with AI and also with strong encryption, actually, the answer is the same. We need to develop an institutional framework, a strong institutional framework, which is based upon transparency, auditability, and accountability. So that, I mean, I don't trust spies or the police, you know, like an idiot. Of course, they can do things wrong and they can overstep the mark. We've seen it many times in lots of different countries. The same for big tech. They are all capable of behaving badly. They have behaved badly. So, we mustn't have blind faith or blind trust in state institutions or big tech. But the answer is to have strong, independent institutions

that can act as a watchdog on behalf of the public, with an ability to audit and ensure transparency in the way these systems operate. And that applies to AI as much as it does to strong encryption. Alternatively, all you're left with at the end is trusting big tech. And that's not an answer. Even when you use WhatsApp or Signal or Telegram, you're actually in the end trusting them to do what they say they do. And we found many times that they tell lies or they get it wrong because they're negligent or because they want to make more money or get more revenue.

00:17:40

1: I feel like it's always about money and that's the issue. How do you see that change in the future? Do you see that in the future?

00:17:44

IP: I do. I do because I think in the end, the rule of law is incredible, it's fundamental for the operation of a liberal democracy. And in the end, I believe the public will demand from the politicians that they come up with solutions which guarantee the rule of law. Because if the rule of law isn't present, bullies win, criminals win, terrorists win. And in the end, it might be what a lot - I'm not saying it's going to happen tomorrow, but in the end, I am confident that in the liberal democracies, the will of the people will, in the end, triumph. It might take a while, but it will. Now, the question is, and this is one of the arguments at the Privacy Lobby Mount, what about North Korea? What about Iran? What about Russia? What about China and all of these other countries that are not liberal democracies? But here's the thing. What, in effect, is being said there, is that we refuse, we should refuse to do the best we can to protect British children, Portuguese children, Austrian children, because if we do take these steps, actually what we're doing is helping the government of North Korea, helping the government of Iran and China. And that is just not a workable, it's a ridiculous idea. The idea that the only way to help the people of North Korea or Iran or China is to make life more dangerous for children in Portugal, Britain or Austria or wherever, it's absurd. It's just a political debating point. It has no intellectual coherence.

00:19: 43

1: Interesting. When we're on the topic, how important do you think public awareness in education is?

00:19: 52

IP: Huge. Absolutely huge. I mean, we don't have enough of it. It's very simple and straightforward. We need a better educated public, better educated parents, better educated children in the world, in this new digital world that we're all having to live in. It's fundamentally important. But, you know, we can't rely on the industry to do it. It's a matter for the state and the schools to help parents and the civil society to get up to speed.

00:20: 26

1: Because I feel like not enough people know about the issue of child sexual abuse material. They're not informed. Nobody teaches them those topics because it's too uncomfortable. That's how I feel.

00:20:46

IP: Correct. We did a survey in 15, this is ECPAT International, in 15 EU member states on the question of privacy and online child protection. People had no idea that it was possible to do things to detect child sexual abuse, you know, grooming or images. And when we told them that it was, the only thing they wanted to know was why isn't it already being done? Why isn't this compulsory? And that is public opinion. So what the challenge is, how do we channel that view of the public into democratic political institutions? Because at the moment, it's not getting through. And the power of, the lobbying power of big tech is winning. But it's not sustainable in the long run. It can't go on forever. And big tech know that. But I mean, big tech are not stupid. So, but the thing is, so, all the big what big tech are doing is just trying to delay things for as long as possible. They like the status quo; the status quo is what has made them rich and powerful, so they know it can't go on forever, but they'd like to keep it going for as long as possible.

00: 22: 38

1: Yeah, it's true, I guess. But I think in education, that's a really huge thing that needs to be taught. So, from your perspective, what roles should governance and tech companies and NGOs play in the evolving landscape of online child safety?

00: 23:10

IP: Well, civil society has a hugely important role to play, on behalf of the consumers, basically, I suppose. The people who use the internet how you frame it, how you put it all together;

that's part of the challenge and you know when you look at the resources that google and meta and the big tech spend you know they're not just the big tech companies they're the big tech companies on marketing pr and lobbying and compare it with the resources available to civil society it's completely out of balance. So my kind of deepest worry I guess is that it will take a gigantic calamity of some kind a big accident something going very badly wrong that finally shakes world leaders into doing something to sort of change the status quo, because there's no way big tech's going to do it voluntarily there's

00:24: 15

1: You mean in terms of child protection?

00:24: 17

IP: Yeah, well, and internet security and governance generally. everybody knows that if we knew 30 years ago the way things were going to turn out, we would have taken steps to stop it from turning out the way it has done. Let's say, obviously not stop the internet, that's been a fantastic advantage just to the modern world. But we might have put more security measures in. This is what Vint Cerf has said; Vint Cerf said the internet was great, the only thing we didn't work out is what would happen when the internet, when the public got their hands on it, and that's the truth of it - this is a gigantic example of the doctrine of unforeseen and unintended consequences. Nobody wanted what we got. And so, it's not it's not sustainable in in the long run, but don't ask me how far in the future the long run is.

00: 25: 19

1: What do you think about stakeholder collaboration? How important do you think is it in terms of online child protection?

00: 25: 26

IP: Well, you know stakeholders are part of civil society. Um, I've worked with ethical investors you know, so these are companies, churches, different organizations who invest in tech and have tried to pressure tech companies to change their behavior, but they get outvoted, you know. Look at Meta, Daniel Zuckerberg owns 62% of the voting stock in Meta, he decides everything that happens in that company. So civil society, of course, that's the voice of the people. So, in the end, it has to count for a lot, but how you organize it and how it makes a breakthrough, that's the challenge.

Appendix 1.3: Dr. Jompon Pitaksantayothin

Documentation Sheet

Date of the Interview:	02/08/2024
Place of the Interview:	Zoom Meeting
Duration of the Interview:	82:76
Interviewer:	Daniela Figueiredo Moreira
Interviewee:	Dr. Jompon Pitaksantayothin
Current Occupation of the Interviewee	Associate Professor at Hankuk University of Foreign Studies
Employer:	Hankuk University of Foreign Studies, Republic of Korea.
Professional field:	- Law and Legal Studies - Cybercrime - Comparative Law

Interview Guide

1. South Korea has not yet acceded to the Budapest Convention on Cybercrime. What do you think of this decision? What do you see as the potential benefits and challenges for South Korea if it were to join the Budapest Convention?
2. How effectively do Thailand and South Korea incorporate the principles of the Convention on the Rights of the Child and its optional protocol?
3. Can you highlight any innovative approaches or best practices from South Korea and Thailand that could be adopted by other countries?
4. In your opinion, what are the main challenges that these countries face in aligning their national laws with international standards on Child Sexual Abuse Material (CSAM)?
5. How do inconsistencies in legislation across different jurisdictions within Asia affect the regional efforts to tackle CSAM?
6. How do South Korea and Thailand collaborate with international organizations and other countries in combating CSAM?
7. What role does technological progress play in the detection and prevention of CSAM in South Korea and Thailand? Are there certain technologies that have proven to be particularly effective?
8. How do public awareness campaigns and educational programs in South Korea and Thailand contribute to the prevention of CSAM?
9. How do the effectiveness of CSAM laws and enforcement in South Korea and Thailand compare to those in European countries?
10. Based on your substantial research and expertise, what recommendations would you make to improve the international legal framework for CSAM to better support Asian countries?

Transcription

00:06:26

IP: So, actually, I have two questions here. Do you want me to answer the questions in the numbering order, or do you want just it to be like a talk instead of giving you answers in accordance with the questions that you have?

00:06:50

1: Whatever feels more comfortable to you. Both are fine with me.

00:06:59

IP: So, let's follow all the questions in the numbering order. For the first question, you said that South Korea hasn't become a party of the Cybercrime Convention yet.

Actually, as far as I know, the South Korean government have been invited, invited by the Council of Europe to join. But for some reason, maybe it is because of the internal legislative process, I haven't heard any developments in this issue on this issue yet up until this point. But the thing that I notice is that if South Korea joins the Cybercrime Convention, the things that South Korea will have is, first of all, they have to adopt the standards, right? Adopt the standards that are required by the Cybercrime Convention. When I have a chance to look at the Korean law at the moment, most of the things are fine, I think. They have already a number of provisions concerning cybercrimes, not to mention about the real cybercrime, just like hacking or something like that, about a social aspect of the crime of the law, they also have this child pornography law in place right now. But the thing is that they may have to adjust. I'm not sure because, as it is required by the cybercrime convention, it intends to protect people who are under the age of 18 years old. Right. But in this country, they regard people who are under 19 years old as young minors or something like that. So, they have to adjust this, but the problem is, if they have to adjust this, it means that it will affect other laws as well. They have to change a lot of things in terms of the ages of the minors. But the things that they will get the benefits from is that they will be able to, you know, access and participate in some kind of evidence, I mean, the evidence system, data system. They can share data system and also can give more collaborations, collaborations with countries, the police from other countries which are already the members of the cybercrime convention. In 2018, South Korean police had a chance to collaborate with the United States, the police from United States, from the UK, from Germany as

well, and other different countries to post out child pornography websites in the darknet. I think the website is called 'Welcome to Video Kids.'

So the person who was behind this was arrested and then tried in South Korea. So, this is the most recent evidence that I have, that I have come across so far with regard to the international collaborations to deal with child pornography-related crime. But it is just like, it is not through the platforms or through the system of government, of Europe, but just like between nations, just like United States, UK, Germany, and other countries. But if South Koreans become part of the cybercrime convention, I think the collaboration will be facilitated and will be much easier.

00:11:28

1: It's very interesting what you say about the age of 19 and how that doesn't fit, that doesn't add up. But then it's also, South Korea has ratified the CRC and the optional protocol, and there's also the age limit of 18, but it still has ratified those conventions. So that shouldn't, I think, be an issue that holds South Korea back. I'm not sure, but it's an interesting perspective for sure.

00:12:08

IP: So technically, when in other aspects, especially something in relation to the protections of children. The protection of people at the age of 19 seems not to be a problem because it is in line with, anyway, if you want to protect people who are under the age of 18, so South Korea has a one year higher, stronger protections for people, right?

For young people, so it would not be a problem. But in terms of child pornography things, it is a little bit different because it is the age. The age between 18 and 19 years old are used as the criteria to determine whether that material is followed in the scope of illegal materials or not. So, it is a different matter. So as a result, I think, I'm not sure because this country is extremely conservative in terms of the, I mean, the legislative. The legislative people there, those legislators, they are quite conservative. But if South Korea joins, they have to do a lot of things. But in my perspective, I think they will be beneficial in terms of international collaborations that will have standard platforms or some kind of standard. I mean, protocols of the law enforcement between, with other countries, especially European countries.

00:14:12

1: Perfect, thank you

00:14:15

IP: So can I move to the question number two?

00:14:16

1: Of course.

00:14:17

IP: How effective do Thailand and South Korea incorporate the principles of the Convention on the Rights of the Child and its Optional Protocol?

I can say that both countries have already complied with the requirements set by the CRC and its Optional Protocol, especially in terms of the policies and also in terms of legal measures. So, the laws at the moment, for example, in Thailand, we have the Child Act, right? And in Korea they have the Juvenile Act. These two acts are specifically decided to give stronger protections to children in these two countries. And to a great extent, these two pieces of legislation are in line with what the CRC and also Optional Protocols require. So, in terms of laws and in terms of policies, no problem at all. However, what I am not sure is the enforcements or the implementations of the policies. It depends very much on the governments at the time. Just like some governments, I cannot talk much about South Korea, so I'll give you an example from Thailand.

From time to time, something like when we have a government, maybe at the time they are very serious and they enforce the law to protect children robustly, or they enforce the law strictly. Sometimes they don't care much. I mean, they have some other things to do. As a result, the protections of children, especially in Thailand, I mean, it's not that stable. It's up and down, up and down, depending on the policies of that particular government. And again, just like for the Thai police, they also have to follow what the government says, right? So it is, again, just like now, the [inaudible] is giving more importance to, for example, drugs. So, the enforcement of the Thai police will focus on the suppression of drugs. And as they have limited human resources, so at this point, the informants of the law to protect children may not be as strong as in the past.

But for South Korea, because I have been in this country for just two years, I cannot talk much about how the South Korean police implement and enforce the law, but in terms of the laws itself and in terms of policies both countries have everything that as required by the convention

00:17:48

1: Interesting, thank you so much.

00:17:57

IP: Do you want to ask me some other additional questions, or let me finish and ask it after?

00:18:03

1: I think we can move to the next question, and if we finish everything we can discuss it afterwards.

00:18:27

IP: Okay, so innovative approaches or best practices in South Korean Thailand. I can, let's start with South Korea first as they have already joined in the online system which is called international response against exploitation they joined force with the UAE, Nepal, Taiwan, Singapore, Indonesia and Thailand. So this platform will allow the law enforcement authorities in these six countries to share information about the crimes against children, and they can also ask the law enforcement in the member countries to take down or to find or identify the illegal website, especially those which have some kind of childpornographic materials, they can ask the authorities to go to take down those crimes against children, so basically what they do is they have this website in their own country. So this is something that can help these countries to, at least, take down the illegal materials first, and they can share information among each other as well. But so far, between Thailand and South Korea, I haven't seen any collaborations between these two countries yet. Because normally, for Thailand, they had some collaborations with the United States, UK, European countries. And Korea itself, they also have the collaborations with these countries. But between Korea and Thailand, they haven't had tangible collaboration yet, except this one, the platform, which is called International Response Against Exploitation. So far, I haven't seen any other things yet, apart from some kind of online platforms and things like that, that I've just mentioned. The best practices from Korea and Thailand, I think, the thing that I have to press them is that both countries are very collaborative. When they receive requests from the United States, UK, European countries, just like Germany and other countries in Europe, if they receive any requests from these countries to investigate or to track any websites which host in these two countries, they will certainly do and also allow police officers from other countries to participate in the investigations and other law enforcement processes as well. This can be regarded as the best practice that we can learn from these two countries.

About the challenges that these two countries face. First, as I already told you, it is about the age. In Korea, the age is 19, but in Thailand we do not have that problem because the criminal court of Thailand says that material that depicts sexually explicit activities of people who are under the age of 18 is considered to be illegal child pornographic material, so it is in line with the conventions, the cybercrime convention and the CRC as well. However, something that, I think there are inconsistencies, and discrepancies between the law and these standards, in Thailand, because it allows people at the age of 17 to get married, right? And after that, they will be treated as adults by law, although their real biological age is still 17. The thing is, if these young very young couples take photographs or takes video clips each other. So in this regard, the things will be like this, these couples will automatically and legally be committing a crime of child pornography, although the fact that they are legally husband and wife. So this is one challenge that the Thai law legislative bodies have to think about.

Actually, I have already mentioned this point in my paper, and if I have had the chance in the past to talk about this to the authorities and legislative people, it seems that they don't quite understand, and they do not want to do anything, at least at the moment. Because when we look at the law in England, they have the exception that if the person who takes the pictures is the legal partner or spouse, they will not be punished by child pornography law, but in Thailand we don't have such things and in Korea as well they don't have such thing.

The second the second challenge is about video clips of photos taken by young married couples, and another thing is that in Thailand, the scope of uh child pornography materials is too wide, it's too broad. It covers not just only the material visual materials but also audio materials and even something like written materials. If somebody in Thailand writes some kind of erotic novel involving people under the age of 18, it means that that person has committed a crime, but when we look at uh the law in Korea, the provisions prescribed in the conventions on cybercrime, both laws focused only on visual materials. So it means that, in this regard, Thailand is not in line with the international standard to a certain extent.

This is the second thing, and the third thing in Korea is that the courts had a chance to say to confirm that the child pornography law in Korea doesn't cover other things than visual materials and also something like not real pornography, just like young adults who look very young involved in sexual materials is not considered as child pornographic materials and also cartoons and so on. But in Thailand, because the law is not that elaborated, and there is no exception, so it means that adults who look very young, which is displayed in the materials, can be considered as child pornographic material as well, and cartoons and so on, are also covered by the definition of child pornographic materials. It makes things very difficult to enforce the law, because when

I say that, for the adults or for real humans we can get the confirmation from the actresses and actors that they are over the age of 18 or 19, right? But with regard to cartoons and um virtual materials, it is very difficult to say as they are not real human, right? Because they are just digital information, digital data which were combined together to create the pictures of something which look like children or young people, but they are not. And now we are in the age of AI, so it is much easier for people to create this kind of stuff, from AI- digital generators as a result it made things even more complicated, especially when we say that, when we have to determine whether the things in the material is a young person and the age of 18 or 19 or not. So these kind of technologies bring up big challenges to not only Thailand but Korea as well. But I haven't heard any development or any cases we have the facts like this yet up until this point.

So I think it is also a matter that the legislative body of the Council of Europe has to think about to consider as well. They have to change the provisions in the child pornography cybercrime convention, because that convention was adopted almost twenty years ago, and everything has changed a lot since then. So they may have to think about it again, whether they have to change or amend or do something.

Let's move on to question number five. One point is that I would like to say that, at least in Thailand and Korea, the age difference is a matter. Because as I told you earlier, for example, the website which depicts sexually explicit images of people who are over 18 years old. However, it is very difficult for law enforcement officers in Korea to say that you have to take it down. Because people in my country can access to that website, which is hosted in your country. But I also can say that yeah, we can take it down as it is against obscenity law. But we cannot enforce the child pornography law against the owner or the people who run this website, because in my country, it is not regarded as child pornography material, so this is something that makes the law enforcement and international collaborations a little bit more difficult. Just one year of a difference makes a big difference and can be considered a big obstruction.

So, for go to question number six, both South Korea and Thailand, have already had a number of collaborations with international organisations. For example, when they deal with the people who came to Thailand and abused children, and took the photos of those children and uploaded to the internet. So, when they got the request from abroad, I mean, for example, from the Interpol, from the United States, from Australia and so on, they are willing to give the collaborations to enforce the law. So far I haven't heard any cases that they have been requested collaborations

from other international organisations yet. But from other countries, yes, on a number of occasions they have received requests from law enforcement authorities of other countries.

Zoom crashed

Second Part of the Interview

00:01:55

IP: So, I'm opening your questions file. The technological advancements, right?

One thing that I have heard about the technological advancements, apart from the collaboration platforms, I've heard that there is a system which can detect and can guess and detect child pornography materials by using AI. But so far, I haven't heard that Thailand and Korea have deployed such technology yet. So, I cannot say about its effectiveness because I haven't heard that these countries have any launch, any technological tools to detect or to track the websites which shows or displays child pornography materials yet.

Okay, so we move on to question number 8. About the public awareness, apart from new reports of that person was arrested, I haven't heard anything yet, both in South Korea and Thailand. So, it seems that both countries do not have any campaigns to raise awareness of the public, concerning the problem of child pornography materials. And in educational programs, I'm afraid that I cannot answer this question because I'm far away from the schools and I don't know the kids in Thailand, whether they have a chance to learn about child pornography materials or not. But I have two kids at home and they are in Korea now. They go to Korean schools. I have a chance to look at their books and so on, but nothing about the educational programs concerning the problem of child pornography materials. This is from my experience, but I don't know other kids at other schools, but at least my kids, they don't have any textbooks or teaching by their teachers about this matter yet.

In comparison, we move on to questions number nine. In comparison to European countries, I think to a great extent, both countries are doing quite well in terms of law enforcement, especially against the government. And those who, who upload or produce child pornography materials in these two countries. As you can see, maybe you can find some information from the news reports in Thailand that there have been a number of cases which, as I told you earlier, that the Thai police of got requests from other countries, and they give the collaboration to those countries. And go, went on to arrest those people who produced it and upload the materials to the internet who resided in Thailand. So the enforcement in Thailand is quite effective and in

Korea is quite effective as well. I think, I'm not sure about other European countries, but because I graduated from Leeds University in the United Kingdom, so I could notice that, only in the United Kingdom, they also enforce the law quite effectively as well. But I don't know about other, other, other situations in other European countries. But so far I can say that the law enforcement in these two, in South Korea and Thailand are quite effective.

So, we move on to the last one. The recommendations. I think, actually, I've already, already mentioned about these possibilities of improvement. First, is it possible for individual countries to consider about the age of a person to be considered a child again? Because the differences of ages to be considered as children are quite different in many countries. We just, we can say that, we follow the CRC, so the age of a person who is under the age of 18 can be considered a child. But in reality, because of the legal age to get married and the legal age to give consent, or something like this, different countries have different ages. So, this is one point that they need to come and talk about this matter again, and find at least a kind of, I don't want to say universal standard, but just like, kind of, something which is in line with each other.

So you have to go back to change the law or at least to give some exceptions. In the case of people of 17 years old, 16 years old, get married, you give to, give the exceptions to those people as well. At least to bring the differences between different countries together. To make them at least, okay, we have the standard that we accept at the age of 18 and the law in my country is not, is not against or is not much different from the standard. So, they don't need to, they can do a lot of things. For example, they may not need to change the definitions of the law, sorry, of the age in their countries. But they may give exceptions. And another thing is they have to consider about the materials, the characteristics of the materials. Okay, nowadays, I think most countries agree that we focus on visual materials. Especially the visual materials that depict real children, human, young humans. However, they have to come to talk again that, okay, we focus on visual materials. But how about cartoons? How about visual people? How about AI-generated characters and images, and so on? How shall we do with this? If we say that, for example, if we agree that, if with normal people's eyes, they cannot distinguish that this is the AI or computer-generated images or videotapes. So, if that video, particular videotapes or images depicts sexually explicit activities of children, so maybe they can criminalize it, right? However, if we can see it, okay, it is obviously not a child, this is just a cartoon or it is just AI-generated in the very comic way or something like that. So, they could come to agree that this is not, this should not fall within the scope of the law enforcement against child pornography. They should come to talk and set the standard that will make it easy for individual countries to comply with, and enforce the domestic law. And I think maybe it's time for the

legislators of the COE, Council of Europe, to go back to have a look at the provisions concerning child pornography in the Convention Cybercrime, whether they have to improve, they have to amend or do something to align, to keep pace with the technological change, especially in the age of AI nowadays.

00:11:28

1: So would you say that, so you're of the opinion that it shouldn't be a matter of law enforcement, all the other forms of AI and everything, would you, because there are, let's say, sexual video games that depict children, um, that are doing clear sexual content with adults in this video game, something like that shouldn't be a matter of law enforcement, or would you say that maybe it should be two different matters of, okay, here's one law that says depicting real children, and here's one special law for the rest, because if, like, if an offender has, has only, let's say, that, that comes because I come from digital forensics, but a potential offender has, like, a thousand pictures of children that do sexual explicit content, that I think that shouldn't be something ignored completely.

00:13:02

IP: Actually, I did not that they should be ignored completely. However, what I said is they should come to make an agreement, on whether this falls within the definition of child pornographic materials or not. Because now some countries say that, yeah, this kind of stuff, it is cartoons, so it is not considered as child pornographic materials. But in Thailand, for example, it is cartoon so I don't care, as long as it depicts pictures of children involving in sexually explicit activities, so it is child pornography, but as I told you earlier, in Korea, it's not just a cartoon. So, they have to come to have a talk to make an agreement on whether they will consider this type of stuff and criminalize it or not now, because the different countries have different opinions towards the things like that, I mean cartoons and AI or computer-generated materials.

00:13:55

1: Also do you think it's getting too complicated to rely on a document like the CRC? Because it's getting very difficult to cover all the countries, all the signatory states, would you say it may be a better idea to focus regionally on the countries or still stick to documents like the CRC on the optional protocol and the Budapest Convention, but then there's the issue that you mentioned with the age limit, for example.

Like different countries have different laws and different cultural aspects. Would you say it may be too difficult to make a uniform international framework?

00:14:48

IP: Yeah it is, it is difficult. Oh, actually when we look at the Cybercrime Convention, we can say that the initial intentions was to be a regional piece of legislation right, because it's initiated by the Council of Europe. But at the end of the day, the Council of Europe tried to invite other countries outside of Europe to participate in so, just like now, and I think, Japan, Australia and Canada are also members of this convention and have ratified it. So, it would be a good idea if they can become with agreement at the regional level first, but again, if we want to ensure that the enforcements against child pornography will reach maximum effectiveness, it is still important for individual countries to agree that okay, we set the age to be for example 16, 17, 18, something like that.

00:16:07

1: Because it's interesting, in Germany, the age of a child is 18, but Germany differentiates between children and youth, so you're a child until you're 14 and from 14 to 18 you're youth so they have different laws for that as well. But compared to South Korea it still falls under the guidelines because it is still a child under the guidelines because it is under 18. Also, I think it was very interesting what you said about question 8 with the awareness and education because yesterday I was researching for South Korea and what it does in terms of prevention and education and it seemed to me from the research it does so much more than Germany. It said, I found a lot of articles that said that it's part of education or that they're trying to make it part of education, sexual abuse, not explicitly child pornography. As child pornography is also a form of child abuse, so I kind of put those two together, but um I thought South Korea is doing a lot in terms of education and then they have, I think, they had a few campaigns, they have seminars, um, and they're trying to teach professionals about I think digital safety, so that was surprising to me, to hear your opinion on that, um, or your view on that because you live in South Korea.

00:18:07

IP: As you mentioned, the campaign is against overall sexual abuse, although we can say that, child pornography materials are also a part of sexual abuse against children, but they don't bring it to stand out as a problem, a problem in its own right. As a result, well, what I can say is like this, I think a number of people know that taking the photos or taking you know clip of other

young people, especially naked or sexual explicit images of young children is illegal, and the thing is students are also taught to protect themselves against this kind of stuff. However, the thing is sometimes they don't even know, they are not aware that posting something like this, having something like this in their positions should be subject to criminal law as well. So it is a different matter, as you can see that, for example, a child may know that, or if somebody takes a photo of me, so that person is doing something against the law and I should protect myself. But in certain cases, I think children may not know that, okay, having something like this in my position or are distributed to other people through the internet are also illegal as well, so it is just like two different things they overlap each other, but they can be approached as separate matters as well.

And in South Korea and in Thailand, as I told you that they focus on protections of children, but they don't give the spotlight to child pornography materials as a separate matter.

00:20:41

1: Yeah, I think that happens a lot. I think it's not only South Korea and Thailand, I think that happens everywhere because people also don't know. I think child sexual abuse material has a lot to do with technology and I think people are scared and they don't know, so they talk about child abuse in general.

One last question would be: you talked about um South Korea and Thailand only collaborate with other states when they're requested, when they get a request. South Korea established many special laws on child abuse, child sexual abuse material. Why do you think that happened, do you think it happened because of pressure or just out of their own

00:21:38

IP: You mean in South Korea right? First, they did it because of their commitments to legal commitments to the CRC. And the second thing is that this matter is quite related to school bullying and bullying among teenagers just like, bullies either they take a photo or something like this of the victims and distribute it on the internet. So, it has become a problem of bullying, but it is related to child pornography materials as well.

So, I think the principle is that they want to protect children from other, how can I say, to different types of violence and sexual abuse. And because of this, it is an overall picture, right? But when we look deeper into this overall picture, you find that, okay, there is one matter inside the overall picture that it is the problem of child pornography materials. So that's why I told you just ago that this country and Thailand as well don't pick up child pornography as a separate

matter. But it's just like something, how can I say, one piece of Lego in a number of Lego blocks.

Appendix 1.4: Prof. Dr. med. Dr. phil. Klaus M. Beier

Documentation Sheet

Date of the Interview:	17/07/2024
Place of the Interview:	E-Mail
Interviewer:	Daniela Figueiredo Moreira
Interviewee:	Prof. Dr. med. Dr. phil. Klaus M. Beier
Current Occupation of the Interviewee	Director Institute of Sexology and Sexual Medicine
Employer:	Charité – Universitätsmedizin Berlin
Professional field:	Sexual Medicine

Interview Guide and Responses

Preventive Strategies for Individuals with Pedophilic Disorder

Q: Your work has focused on preventive measures for individuals with pedophilic disorder. What preventive strategies do you find most effective in reducing the risk of individuals committing offenses involving child sexual abuse material?

A: Effective preventive strategies for individuals with pedophilic disorder encompass both psychotherapeutic and pharmacological treatments. Cognitive-behavioral therapy (CBT) is a key psychotherapeutic approach that aims to alter harmful thought patterns and behaviors, enhance self-control, and develop coping strategies for managing sexual impulses. Specialized therapy for dissexuality, which addresses the unique needs and challenges of individuals with atypical sexual preferences, is also crucial.

Pharmacological treatments, particularly Androgen Deprivation Therapy (ADT), play an essential role in prevention. ADT involves the administration of medications such as antiandrogens (e.g., cyproterone acetate) or GnRH analogs (e.g., triptorelin) to reduce testosterone levels, thereby diminishing sexual drive and fantasies. This pharmacological intervention significantly alleviates the burden of uncontrollable sexual impulses, facilitating adherence to therapeutic interventions and reducing the risk of offending.

Integration into Policy Frameworks

Q: How can these preventive strategies be integrated into national and international policy frameworks?

A: Integrating preventive strategies for individuals with pedophilic disorder into national and international policy frameworks requires a comprehensive, multi-faceted approach. Clear guidelines need to be developed and implemented for the treatment and management of these individuals, highlighting the importance of both psychotherapeutic and pharmacological interventions. Sufficient resources must be allocated to ensure access to specialized therapies and medications, including funding for the establishment of specialized clinics and training programs for therapists and medical professionals. Promoting international cooperation is also vital, allowing for the sharing of best practices and research findings, and developing unified

standards. Programs such as "Kein Täter werden" (Don't Become an Offender) can serve as models for similar initiatives worldwide.

Additional Considerations in Preventive Approaches

Q: In your work, what additional considerations or measures come into play in your preventive approaches when children are involved and directly affected?

A: When children are directly involved and affected, it is critical to implement specialized risk management strategies that go beyond general psychotherapeutic and pharmacological treatments. This includes enhanced monitoring to ensure compliance with treatment protocols and to detect any signs of potential relapse. A multidisciplinary approach is essential, involving collaboration among psychologists, psychiatrists, social workers, and legal professionals to provide comprehensive care and support for both the individual and the affected children. Engaging family members and the community in the therapeutic process is also crucial to create a supportive environment and to educate them about the risks and protective measures.

Impact of 'Kein Täter Werden' Project

Q: What has been the impact of the 'Kein Täter Werden' project in Germany on preventing potential sexual offenses?

A: The 'Kein Täter Werden' project in Germany has significantly impacted the prevention of potential sexual offenses. The project has achieved high participation rates and has gained broad acceptance among the general population. It offers anonymous, free-of-charge, and low-threshold access to preventive therapy for individuals with pedophilic disorder, thereby reducing the likelihood of these individuals committing sexual offenses.

Universal Applicability of the Program

Q: Are there specific elements of this program that you believe are universally applicable or adaptable to other cultural or legal contexts?

A: Key elements of the 'Kein Täter Werden' program that are universally applicable include its anonymous and free-of-charge nature, as well as its low-threshold access. These features can be adapted even in countries with mandatory reporting laws, by ensuring that the program maintains confidentiality to encourage participation.

Future Directions for 'Kein Täter Werden'

Q: What are the future directions and goals for the "Kein Täter werden" program, and are there any plans to expand or collaborate internationally?

A: The future directions for the 'Kein Täter Werden' program include the continued establishment and stabilization of the program within Germany, primarily funded by health insurance providers. Additionally, there are ongoing efforts to expand the program within the European Union through various projects and activities funded by foundations such as the Oak Foundation and the Wilhelm von Humboldt Foundation (with its new ACT-Initiative). International collaboration and expansion remain key goals, aiming to replicate the program's success in other countries.