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Octopus Interface Conference

Strasbourg 10-11 March 2009
Council of Europe

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Global Perspective

3 years later

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**Child Pornography:
MODEL LEGISLATION & GLOBAL REVIEW**

2008 • 5TH EDITION

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**Child Pornography:
Model Legislation & Global Review**

Reviewed national legislation currently in place in the **187** Interpol Member Countries to gain a better understanding of existing legislation and gauge where the issue stands on the national political agenda.

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Questions Asked

1. Does specific legislation exist?

- Mere labor legislation
- Legislation defining "sexual exploitation"
- **But do not detail**
- Criminal offences related to CP
- Adopt specific sanctions

2. Does it define child sexual abuse materials/"child pornography"?

- Definition of the child: person under the age of 18
- Definition of what constitutes child sexual abuse material
- **Note:** the legal age of consent is irrelevant. Even if a child can consent to sexual relations he/she cannot consent to any form of sexual exploitation
- **Note:** The age of sexual consent should not inhibit or prevent prosecution of the offender.

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Questions Asked

3. Does it criminalize computer-facilitated offenses?

- Mention of new technologies used

4. Does it criminalize possession regardless of the intent to distribute?

- Simple possession contributes to growth
- Images of sadistic rape and torture of children created to order for the consumer in "real-time" is increasing
- Link between possession and actual abuse of children (40% arrested possessors had also victimized a child)

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Questions Asked

5. Does it require Internet Service Providers (ISPs) to report child abuse materials? Or are ISPs self-regulating?

- No obligation to monitor
- Obligation to report upon knowledge
- "notice and takedown" requirement should be enacted within national legislation
- Providing ISPs with statutory protections allowing them to effectively report;

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2006 Results

The end results are, to say the least, shocking:

- Only **27** countries had adequate legislation
- 95** Countries have no legislation at all that specifically addresses child pornography

Of the remaining Countries that do have legislation specifically addressing child pornography:

- 54** Countries do not define child pornography in national legislation
- 27** Countries do not provide for computer-facilitated offenses; and
- 41** Countries do not criminalize possession of child pornography regardless of the intent to distribute

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2008 Results

- Only **29** countries had adequate legislation
- 93** Countries have no legislation at all that specifically addresses child pornography

Of the remaining Countries that do have legislation specifically addressing child pornography:

- 54** Countries do not define child pornography in national legislation
- 24** Countries do not provide for computer-facilitated offenses; and
- 36** Countries do not criminalize possession of child pornography regardless of the intent to distribute

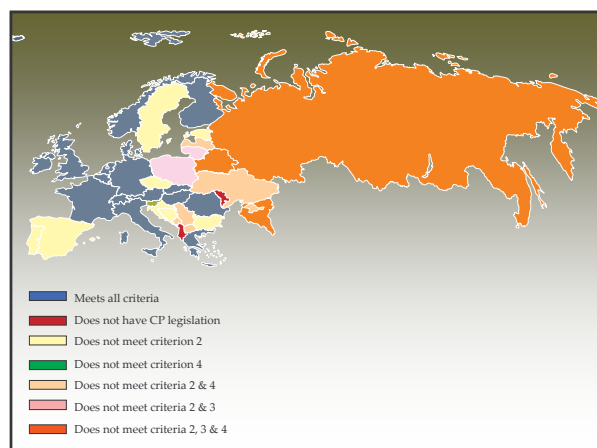
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2008/2009 Results

Country	Legislation Specific to Child Pornography	Child Pornograph & "Distribution"	COMPUTER FACILITATED OFFENSES	SINGLE POSSESSION &	ISP Reporting
Brazil (2008)	✓	✓	✓	✓	✗
Costa Rica (2007)	✓	✓	✗	✓	✗
Cyprus (2007)	✓	✓	✓	✓	✗
Czech Republic (2007)	✓	✗	✓	✓	✗
Egypt (2008)	✓	✗	✓	✓	✗
India (2008)	✓	✗	✓	✓	✗
Moldova (2008)	✓	✗	✗	✓	✗
Portugal (2008)	✓	✗	✓	✓	✗



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WORLD INTERNET USAGE AND POPULATION STATISTICS						
World Regions	Population (2007 Est.)	Population % of World	Internet Usage, Latest Data	% Population (Penetration)	Usage % of World	Usage Growth 2000-2008
Africa	975,330,899	4,514,400	54,171,500	5.6 %	1,100.0 %	3.4 %
Asia	3,780,819,792	114,304,000	650,361,843	17.2 %	469.0 %	41.3 %
Europe	803,903,540	105,096,093	390,141,073	48.5 %	271.2 %	24.8 %
Middle East	196,767,614	3,284,800	45,861,346	23.3 %	1,296.2 %	2.9 %
North America	337,572,949	108,096,800	246,822,936	73.1 %	128.3 %	15.7 %
Latin America/Caribbean	581,249,892	18,068,919	166,360,735	28.6 %	820.7 %	10.6 %
Oceania / Australia	34,384,384	7,620,480	20,593,751	59.9 %	170.2 %	1.3 %
WORLD TOTAL	6,710,029,070	360,985,492	1,574,313,184	23.5 %	336.1 %	100.0 %

Model Legislation Template

I. Definitions

1. Define the "Child"
2. Define "child pornography"
3. Identify the new technologies which facilitate this crime

II. Offenses: criminalize

1. Production
2. Offering or making available
3. Distribution
4. Procuring
5. Downloading/viewing
6. Simple possession
7. Grooming/solicitation
8. Actions of parents/legal guardians who acquiesce to or force their children to participate in child pornography
9. Attempt

III. Mandatory Reporting

1. By professionals who work with children
2. By individuals who as a result of their professional activities may come across child pornography
3. By ISPs, credit card companies, alternative payment companies, banks whose systems/services are being abused

IV. Sanctions & Sentencing

1. No criminal liability for children involved in pornography
2. Enhanced penalties for repeat offenders, organized-crime participants, etc
3. Corporate liability
4. Forfeiture of assets that resulted from child pornography

International Legal Instruments

The U.N. Conventions & Protocols

Council of Europe Conventions

European Community Law

International Legal Instruments

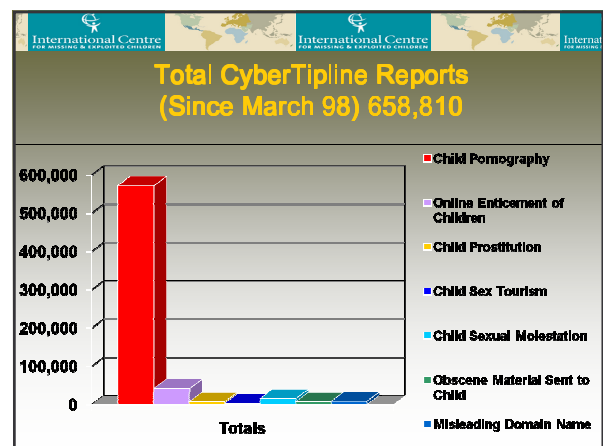
- The U.N. Convention on the Rights of the Child (20/11/1989)
- The Council of Europe Convention on Cybercrime (23/11/2001)
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (18/1/2002)
- Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market
- Council Framework Decision 2004/68/JHA of 22 December 2003 on Combating the sexual exploitation of children and child pornography
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (25/10/2007)

Reminder

- These are **crime scene** photos
- "The production of child pornography stimulates **demand** for such materials"
- The child is **revictimized** as each image is viewed again and again
- The child lives in **perpetual fear** of being discovered

Reminder

- Trading of CP images is more sadistic and more disgusting than ever
- Offenders are increasingly shifting to pre-pubescent children, toddlers and babies
- The revenues generated continue to increase




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Questions?

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