

Child Sexual Exploitation Investigation in Vietnam and Recommendations

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Abstract

Child sexual exploitation has been a serious trouble in Vietnam for a long time. Since 2014, the law enforcement instituted about 1,200 to 1,900 cases annually. Statistics show about 2,000 children are victims of child sexual exploitation crime every year, in which girls account for approximately 80%. A worrying trend is there are more and more children under 6 years old become victims. Thanks to recent efforts from the government and other stakeholders, the situation of this crime has been improved effectively. In the coming years, all stakeholders need to adopt several measures for preventing and suppressing this type of crime. This paper presents some main problem, giving causes and effects, the recommendation and solution of issue. If these solutions could be applied, they will help to deal with child sexual more feasible; therefore, raising and minimizing this type of violation in Vietnam in the coming time.

Keywords: child sexual exploitation; crime; child rape; child molestation; sexual intercourse; children.

1. Introduction

On February 10, 2017, a 13-year-old girl from Ca Mau province committed suicide due to post sexual abuse trauma. She was abused by a 57-year-old neighbour man but the law enforcement failed to take the perpetrator to court due to lack of evidence. Her death has triggered public outrage against child sexual exploitation (CSE) which is reportedly rising across the nation.

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At the meeting of National Assembly of Vietnam on August 13, 2018, General To Lam, Minister of Public Security (MPS) stated that, in the first half of 2018, the Ministry identified over 700 cases of child abuse. 80% of them are child sexual exploitation (CSE) cases whose 80% of victims are girls. This statistics, once again, gives a warning to the government, families and the society to implement more effective and practical measures against this problem.

2. The Legislation of Child Sexual Exploitation and the Role of Stakeholders in Vietnam

2.1. The Legislation of Child Sexual Exploitation in Vietnam

Article 1 under the 2016 Law on Children of Vietnam regulates, “A child is a person below the age of sixteen”. To be synchronous with this regulation, the Penal Code of Vietnam 2015 (amended in 2017) has five articles relevant to CSE as following:

- Article 142 on Rape of a person under 16:

Following this article, a person who uses of violence or threatens to use violence, or takes advantage of the victim's defenselessness or other tricks to engage in non-consensual sexual intercourse or other sexual activities with a person aged from 13 to under 16 will face a sentence of 7 to 15 years of imprisonment. The same punishment will apply to any person who engages in sexual intercourse or other sexual activities with a person under 13. Other paragraphs in this article stipulate aggravating circumstances which the perpetrator may receive longer imprisonment or the most serious punishment (death penalty) for their crime. In the 1999 Penal Code of Vietnam, rape only involves sexual intercourse. In addition, though the law does not regulate, the practical implementation shows the criminal justice system implicitly perceives only male are able to commit rape. Until the latest 2015 Penal Code, the definition of rape extended to involve sexual intercourse and other sexual activities/penetrations. However, the term “other sexual activities” needed to be clarified before implementation. At the same time, law enforcement and judiciary also realize female also can commit rape by aphrodisiac to victims, or become an accomplice in this crime.

- Article 144 on Sexual abuse of a person aged from 13 to under 16

Any person who employs trickery to make a person aged from 13 to under 16 who is his care-dependent or a person in extreme need to engage reluctantly in sexual intercourse or other sexual activities shall face a penalty of 5 to 10 years of imprisonment. The highest punishment for this crime is a life sentence.

- Article 145 on Engaging in sexual intercourse or other sexual activities with a person aged from 13 to under 16: The criminal will face a sentence of 01 to 15 years of imprisonment.

- Article 146 on Molestation of a person under 16: Any person who molests a person under 16 for purposes other than sexual intercourse or other sexual activities shall face a penalty of 06 to 7 years in prison.

- Article 147 on Employment of a person under 16 for pornographic purpose

Any person aged 18 or over who persuades, entices, forces a person under 16 to participate in a pornographic performance or watch a pornographic performance in any shape or form shall face a penalty of 6 to 36 months of imprisonment. In the worst case, the criminal can be sentenced to 12 years in prison. As can be seen, this Code dedicates separate articles for rape and sexual abuse against children. This expresses the perception of the country on those serious problems. The more detailed the articles are, the easier for law enforcement to implement the law.

2.2. *The Role of Stakeholders in Vietnam*

In order to mitigate the seriousness of CSE, Prime Minister Nguyen Xuan Phuc issued an instruction to relevant stakeholders in Vietnam. According to the instruction:

- The Ministry of Labor, Invalid and Social Affairs (MOLISA) is the focal point in dealing with this problem. It is the pioneer in implementing the Communist Party and government's guidelines on the fight against CSE, receiving CSE reports and proposing legal reforms on this issue.
- The MPS is in charge of investigating all CSE cases. It has 2 law enforcement agencies, including Criminal Investigation Department (CID) which is mainly responsible for CSE investigation, and Cyber Security and Cyber Crime Department (CSCCD) which supports CID in investigating online CSE cases. One of the most important thing it focuses now is building the capacity for local police on CSE investigation.
- The Ministry of Education and Training (MOET) responds to disseminate information about CSE to students, teaches them how to avoid being victims, as well as maintains the safe environment for students at schools.
- The Ministry of Health (MOH) responds to forensic examination in CSE cases and provides healthcare for victims.
- The Ministry of Culture, Sport and Tourism involves in disseminate information on healthy family lifestyle and child protection from CSE.
- The Ministry of Information and Technology (MIC) leads news agencies to popularize knowledge and skills on CSE prevention, as well as ensures children privacy.
- The Presidents of nationwide provinces and cities are responsible for CSE prevention and suppression in their areas.
- The Supreme People's Court (SPC) and Supreme People's Procuracy (SPP) manage their system to timely prosecute and judge CSE cases. SPC needs to issue a unified guidance on implementation of the Penal Code's articles on CSE.

- Political-social organizations, such as Vietnam Fatherland Front, Ho Chi Minh Communist Youth Union, Vietnam Women’s Union, and others must enhance their supervision on child protection law and call their members to identify and report CSE crime.

- The Child Protection Association and other social organizations receive, collect information about CSE to deliver to relevant agencies, provide consultancy and lawfully intervene to stop CSE.

Recently, the criminal justice system has had some improvements to adapt to CSE situation. The Procuracy provides dedicated prosecutors who have been trained in the prosecution and supervision over CSE cases. The court system also has the Court for Family and Juvenile at all level with child-friendly courtrooms. This change is to better protect lawful rights and interests of juveniles. The Ministry of Justice (MOJ) provides legal assistance to victims and their families in civil and criminal procedure, and contribute to legal reforms to facilitate CSE prevention and suppression. It also needs to mention to the role of media, especially news media and social networks which seems to play an important role by sharing information situation of CSE, as well as severe CSE cases, which encourage law enforcement to deal with those cases timely.

3. The situation of CSE in Vietnam

3.1. Statistics

According to annual statistics of MPS from 2014 to the first half of 2018, the numbers of CSE instituted cases and accused fluctuated over the period. However, these numbers do not reflect the situation of CSE in reality. The cases that have been reported, or instituted are just the tip of the iceberg due to many reasons which will be clarified later in this article.

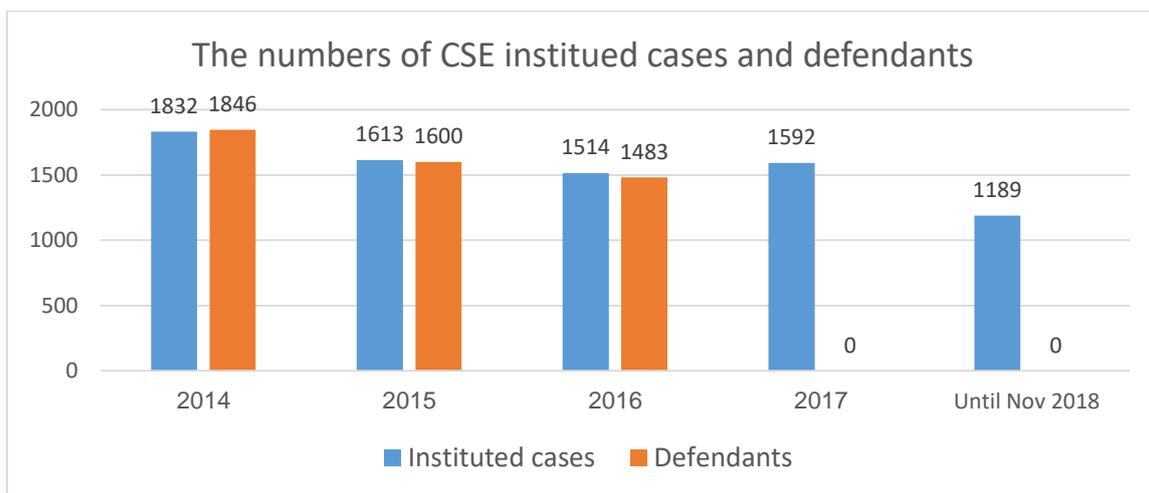


Figure 1: The numbers of CSE instituted cases and defendants from 2014 to November of 2018. The numbers of defendants in 2017 and the first half of 2018 are not available [4], [5], [7]. Another statistics in 2018 for its first half shows there are 701 cases were instituted, 753 cases and 805 defendants were prosecuted, 648 cases went to trial with 690 defendants [8].

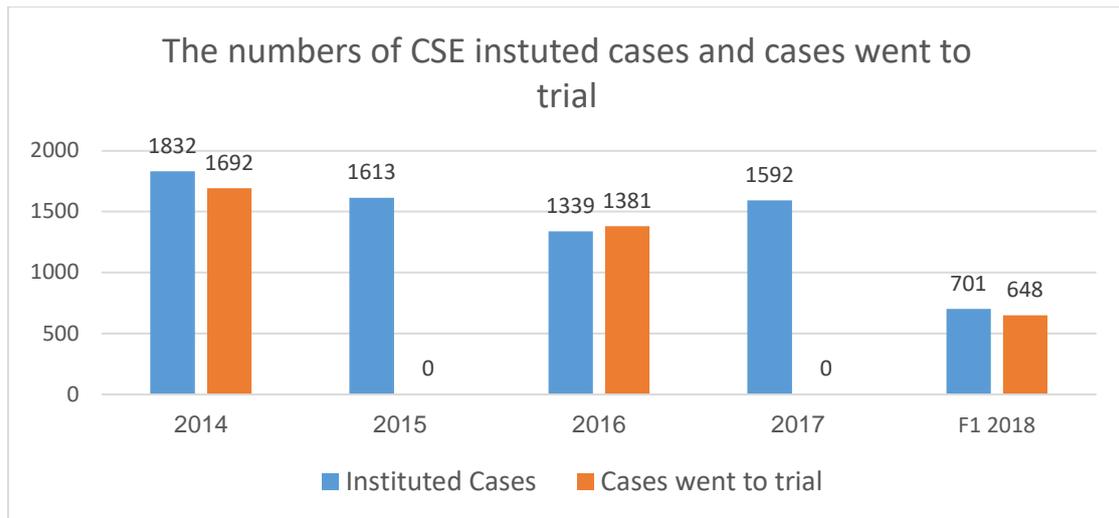


Figure 2: The numbers of CSE instuted cases and cases went to trial each year from 2014 to the first half of 2018 [4,5,8]. The numbers of cases went to trial in 2015 and 2017 are unavailable. Because of the chronological order of criminal procedure, many cases were instituted in the previous year would go to trial next year.

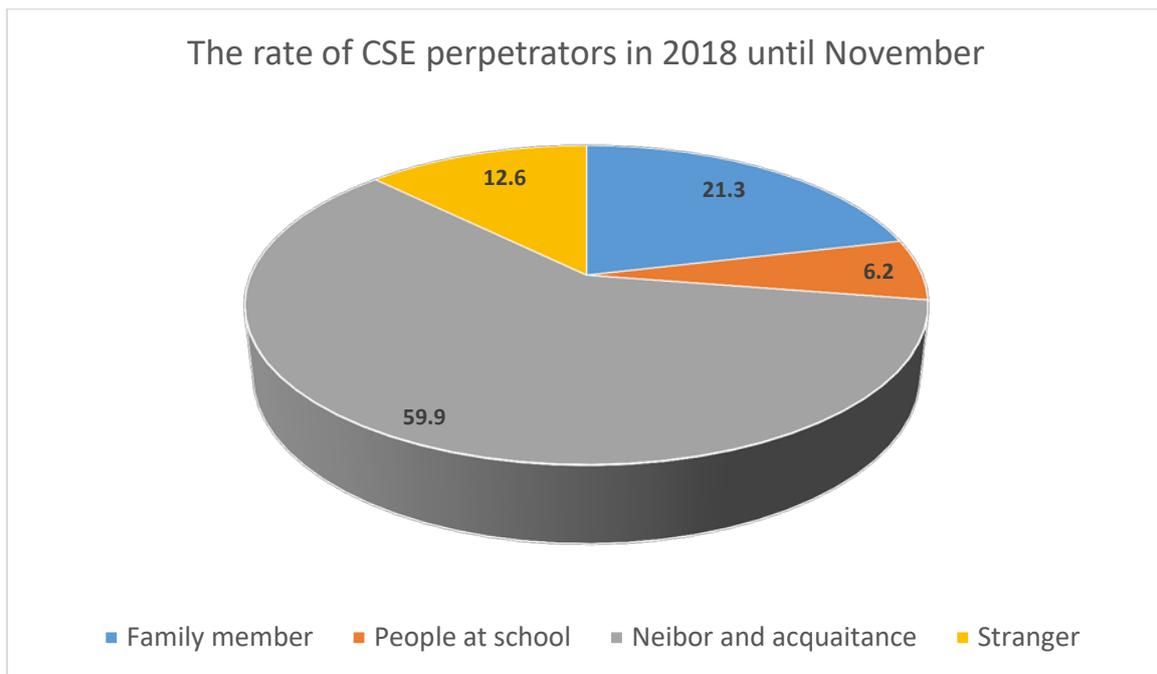


Figure 3: The rate of CSE perpetrators in 2018 until November

In 2016, the cases of rape of children account for 30.1% with 32.3% of total defendants and the cases of having sexual intercourse with children occupies 33.8% with 34.1% of total defendants. Another report of SPC from 2013 to 2017 shows the courts at all level receive 9,305 CSE cases with 10,656 defendants. Among them, 8,674 cases (93.2%) were tried with 9,873 defendants (92.65%) [6]. During the period of 2014 to 2018, perpetrators are mostly from 17 to 40 years old. They are predominantly unemployed or freelancers [4].

Report from the government of Vietnam shows in 2018 until November there are 1,189 CSE cases, including

457 cases of rape (increasing 2.47% over last year), 184 cases of molestation, and 548 cases of sexual intercourse [7]. The majority of CSE perpetrators are neighbors and acquaintances which account for nearly 60%. Family members, for example, father, stepfather, brother, or cousins, etc. also take one-fourth of the total, while the rest are people at schools (teachers, school staffs) and strangers (about 13%). Data collected by the SPC in 5 years from 2013 to 2017 shows the court system has processed 8,100 CSE cases. However, 549 case files (6.6%) were sent back to the prosecutors and police to do further investigation, which provoked the public indignation at criminal justice system effectiveness on CSE punishment [8].

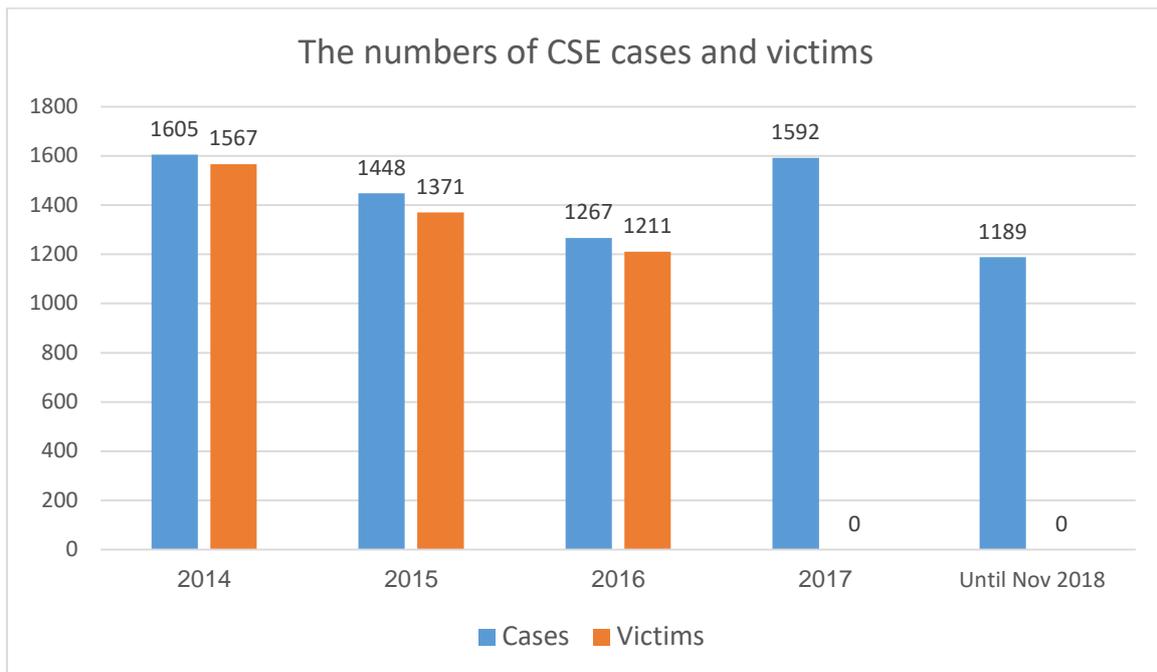


Figure 4: The numbers of CSE cases and victims from 2014 to November of 2018. The statistics for victims in 2017 and 2018 are unavailable [7].

In the chart below (Figure 4), the quantity of victim seemingly declines during the period from 2014 to 2016. Nonetheless, a significant number of victims, as well as CSE cases, have not been reported to the relevant agencies. In many cases, a perpetrator might commit his crime on several child victims. Every year, medical centers examine approximately 2,000 cases of CSE victims which are mostly girls (about 80%) [7].

Studies and reports on CSE also illustrate that the majority of victims are girls. According to UNICEF, approximately one of four girls is a victim of CSE in Vietnam and this rate for boys is one-sixth. There is a girl falling victim of CSE every 8 hours [7]. A study of the Center for Studies and Applied Sciences in Gender-Family-Women and Adolescents (CSAGA), the girls aged from 12 to 15 accounts for 57.46% of total victims. It is also notable that children aged under 6 years old take 13.2% of victims. This has never happened before, and those cases were rarely be tried [4]. Government observation in the period of 2016 to August of 2017 found 2,134 girls (86.78%) among 2,459 victims of child abuse crime, including 1,927 CSE victims. Long-term estimation of girls among CSE victims is about 80 – 84% [8,9]. CSE crime rate is higher in tourism-developed localities where receive a large number of foreign tourists and expats, including child predators. Children who

live in poverty and lack of family attention easily become victims of CSE activities. The quantity of under-6 victims is increasing, because of their weak self-protection skills. Findings from a survey of Child Care and Protection Department under MOLISA reflect serious consequences of CSE to victims. About 60% of victims have abnormal behaviors, feel anxiety and suspicious about everyone, even their family members. To stop suffering from physical (including HIV) and mental problems, some of them may attempt to suicide [6].

As an effort to stop child abuse crime and activities, the MOLISA has launched a hotline number 19001567 since 2004 to provide assistance and help children and their families contact to the right places. On December 2017, the hotline number was changed to 111 for easily remember. This hotline receives about 28,000 calls per month but only 20% of those asked for consultancy on the child abuse issue. The number of calls to request help and intervention is even lower, just about 0.25% of all received calls. Mostly it has never received any call from child victims to complain about their abusive situation that they are suffering. The operation team admits that the hotline has not been popular to the people, due to weak information dissemination.

3.2. Online CSE investigation in Vietnam

The weak public awareness of CSE in Vietnam unintentionally turns the country into an ideal site for sexual tourists from other countries. Foreign child predators come to Vietnam to not only commit their crimes, but also take photos and record videos of victims to post them online. In the other hand, many domestic criminals set up websites to propagandize depraved materials, including child pornographic materials. The CSCCD and CID under the MPS have collaborated with foreign law enforcement to investigate several cases of CSE material propaganda. The most famous case is about the online forum Vkid.tv:

On February 2016, the High Tech Crime Department (now was merged into CSCCD under the MPS) cooperated with CID and the U.S. Federal Bureau of Investigation (FBI) to investigate a criminal group who run an online pedophile forum at the address <http://www.vkid.tv>. The result of investigation found in the middle of 2010, Nguyen Tran Bao Anh (born in 1995 in Ben Tre province, resides in Long An province) create a website named <http://kidgay.com>. In the middle of 2011, he changed the website domain name to <http://www.vkid.tv>, which runs as an online forum where members are able to upload, share pornographic materials. This forum focuses on under-13-boy porn with over 2,000 active members. At the time of arresting, it has 4,378 threads with 60,406 comments. There were 1,328 movies and 690 boy photo albums (10 photos for each album) uploaded to the forum. This is the biggest-ever online pedophile forum in Vietnam. People need an invitation from an existing member to register a new membership in the forum and must pay a fee of US\$ 10 monthly, which can be redeemable by mobile top-up cards and Paypal. Furthermore, a member must upload at least a porn video or image to maintain their membership. Until arrested, Bao Anh illegally appropriated about VND 120 million (about US\$ 5,500). During the interrogation, Bao Anh said he was a victim of abuse when he was 10 years old. This might trigger his interest in CSE material later.



Figure 5: Nguyen Tran Bao Anh arrested at his premise with exhibits.

In this case, police also arrested Nguyen Le Viet (born in 1988) who is a college student in Ho Chi Minh City and work as an English tutor for children. By July 2014, FBI received approximately 700 complaints about a suspect from Vietnam using the nickname “lixthom”, who grooming and threatened boys to do porn videos. Police found Viet uses the account “lixthom” on the forum vkid.tv and he is one of the most enthusiastic members. He impersonates as a 10 to 12 year-old girl to chat with boys of 9-12 years old in the UK and the US and deceive them to do porn videos. More than 200 children in 8 countries, including the US, UK, Canada, etc. felt victims of his crime.

Like cybercrime, online CSE is now a borderless problem that no single nation can resolve. “The cyberspace is, basically, like the real life. The real life has frauds, scams, gambling, and extortion, so does the cyberspace”, said the Deputy Prime Minister Vu Duc Dam in the meeting of National Assembly of Vietnam on October 31, 2018. Crimes committed online are even harder for the law enforcement to investigate, because of the anonymity, geographic distance, and more importantly the legal gap between nations. In the case of the aforementioned pedophile forum, the perpetrators are Vietnamese; however, the victims are around the world. In additional, sextortion online causes worse consequences than it does in reality. In short, all global nations need to collaborate to fight against CSE, especially online CSE.

3.3. Shortcomings and Reasons

CSE has been a trouble in the country for decades. However, due to the concentration on economic development, some other social issues, including CSE, have not been paid enough attention. In recent years, thanks to the government’s efforts, improved life rate and child protection organizations’ activities, the society gradually aware of bad consequences of this crime. Yet, the implementation of child protection policy and measures remains many shortcomings:

- The dissemination of information on CSE to children, families, and society are ineffective [6]. Public awareness campaigns have only organized in places and schools in metropolis cities and forgotten targeting other audiences and areas. Even the 111 hotline for child abuse report has not reached many people. In most cases, victims and their families feel ashamed about the case and want to hide it from the public and law enforcement. Some families tend to negotiate financial compensations with perpetrators, rather than bring the cases to the light of justice [10]. Reporting the crimes too late is the most difficult challenge for the law enforcement to collect evidence to prove the crime and arrest the criminals. The worst thing is in Vietnam, the victims and their families often receive discrimination from the community, what should be imposed on the perpetrators.
- The roles of relevant ministries and agencies involved in the fight against CSE crime have not obviously defined. People often refer to the effort of the political system to fight against CSE crime efficiently. In the other side, the local governments underestimate the situation of CSE and inadequately invest resources to deal with this problem.
- The shortage in both quantity and ability of people who work on CSE prevention is weakening the policy adoption. Many governmental social workers quit their jobs due to low salary [6].
- The criminal justice system is not fully capable of dealing with CSE cases. It needs to be equipped with basic knowledge of child health and psychology to work with victims. Processing a CSE case in the normal way might cause victims' mental effect, as well as negative reactions. During the interview, children may not understand what they say, due to their lack of awareness of sexual issues and post-sexual abuse trauma.
- The CSE victim caring services are very limited. Medical centers only provide poor physical health care and victims rarely receive psychological consultancy to overcome their painful experiences.
- The legal framework on the fight against CSE remains loopholes, which could be abused by the criminals. The act of child porn store has not been criminalized and the definition of molestation is not clear enough to implement the law. In addition, there is no separate criminal procedure for CSE cases and the privacy of victims, their families and crime reporters have not been protected.

4. Recommendations

CSE crimes are predicted to occur more and more in coming years, especially online activities. In order to fight against CSE effectively, it needs to consider recommendations as below:

First of all, the government and community need to privilege prevention and deterrence, rather than suppression in tackling with CSE. Once happened, the crimes would cause extremely bad consequences to the victims and their family, as well as the society.

- The government must define detailed roles for all stakeholders. MOLISA must be the focal point of the country to collaborate with other relevant ministries, agencies and local governments. It should regularly review

and evaluate the results of every stakeholder for tuning their duties.

- Governmental agencies and other organizations need to review their public awareness campaigns to distribute to all suitable places and target potential victims and their families. It must be taken into account to educate kids at kindergartens, especially private-run. The rural areas and industrial zones should be focused to run campaigns to change their cultural perception and encourage them to pay attention to their children. The most important thing is teaching them to prevent to be the victims, and if the crime occurred, they must report to the police as soon as possible to facilitate evidence collection.

- The government should invest more resources in both quantity and capacity building for the staff working on CSE prevention. Their salary should be increased to help them devote their time and mind to protect our children.

- The government should by itself, and collaborate with international organizations, such as UNICEF, UNODC, International Center for Missing and Exploited Children (ICMEC), etc. to organize capacity building programs for law enforcement, prosecutors and judges to better counter CSE crime.

- The MOH must build standard procedures and services to take care of CSE victims. Victims not only need physical health care but more importantly psychological assistance to win post-sexual abuse trauma. It is possible to create a network of volunteers, who can help CSE victim in their communities and reduce pressure on public services.

- Finally, the government must review and finalize its policy and legal framework on CSE prevention and suppression, to facilitate law enforcement and judiciary in fighting against CSE crime in the future.

5. Conclusion

Child sexual issue is a serious crime, causing bad consequences to the health, life and psychology of the victims. This issue is considered a global crime problem, and should be concerned by regulatory agencies, law enforcement agencies and law enforcement agencies. From a crime perspective and investigating crimes, this is a problem that needs to be seriously considered in order to provide synchronous and feasible solutions to reduce the shortage to the lowest level of crime prevention. Moreover, penalties and measures need to be really serious in order to be sufficiently deterrent to this type of crime. Within the scope of the article, we raise the issue, analyze the basic situations of this issue, the analysis of the instructions and the basic solutions that apply if feasible in application. Wishing to minimize and best optimize this type of crime in the coming time.

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