



Through the Eyes of the Child: Barriers to Justice and Remedies for Child Victims of Sexual Exploitation



Junita Upadhyay

Deputy Executive Director for Programmes, ECPAT International

SVRI Forum 2017

Rio de Janeiro, 19 September 2017

Presentation Outline

- ▶ **What is Access to Justice and its importance**
- ▶ **ECPAT's Access to Justice and Effective Remedies Study**
- ▶ **Key Findings: Access to Justice**
- ▶ **Child Friendly Justice: Moving Forward**

The Right of Sexually Exploited Children to Access Justice

Access to justice is the child's "ability to obtain a just and timely remedy for violations of rights" under international law

- ▶ The right to access justice applies to "civil, administrative and criminal spheres of national jurisdiction"
- ▶ It covers "all relevant judicial proceedings...without limitation"
- ▶ It applies to child victims and witnesses

UN Office of High Commissioner for Human Rights, *Access to Justice for Children* (2013)

According to Article 8 of the OPSC, States must adopt **child-sensitive justice procedures** tailored to the special needs of sexually exploited children and ensure that their best interests are a primary consideration in **SEC** cases



Why is Access Justice Important?

- ▶ **For a child victim to become a child survivor – they need the tools to rebuild their lives and recover from their trauma;**
- ▶ **For rights to have meaning, effective remedies must be available to redress violations – UN Committee on Rights of the Child, General Comment 5, para 24**

ECPAT's Access to Justice and Effective Remedies Project

► Access to Justice:

Examining the barriers in accessing justice for child victims and their experiences through the justice system

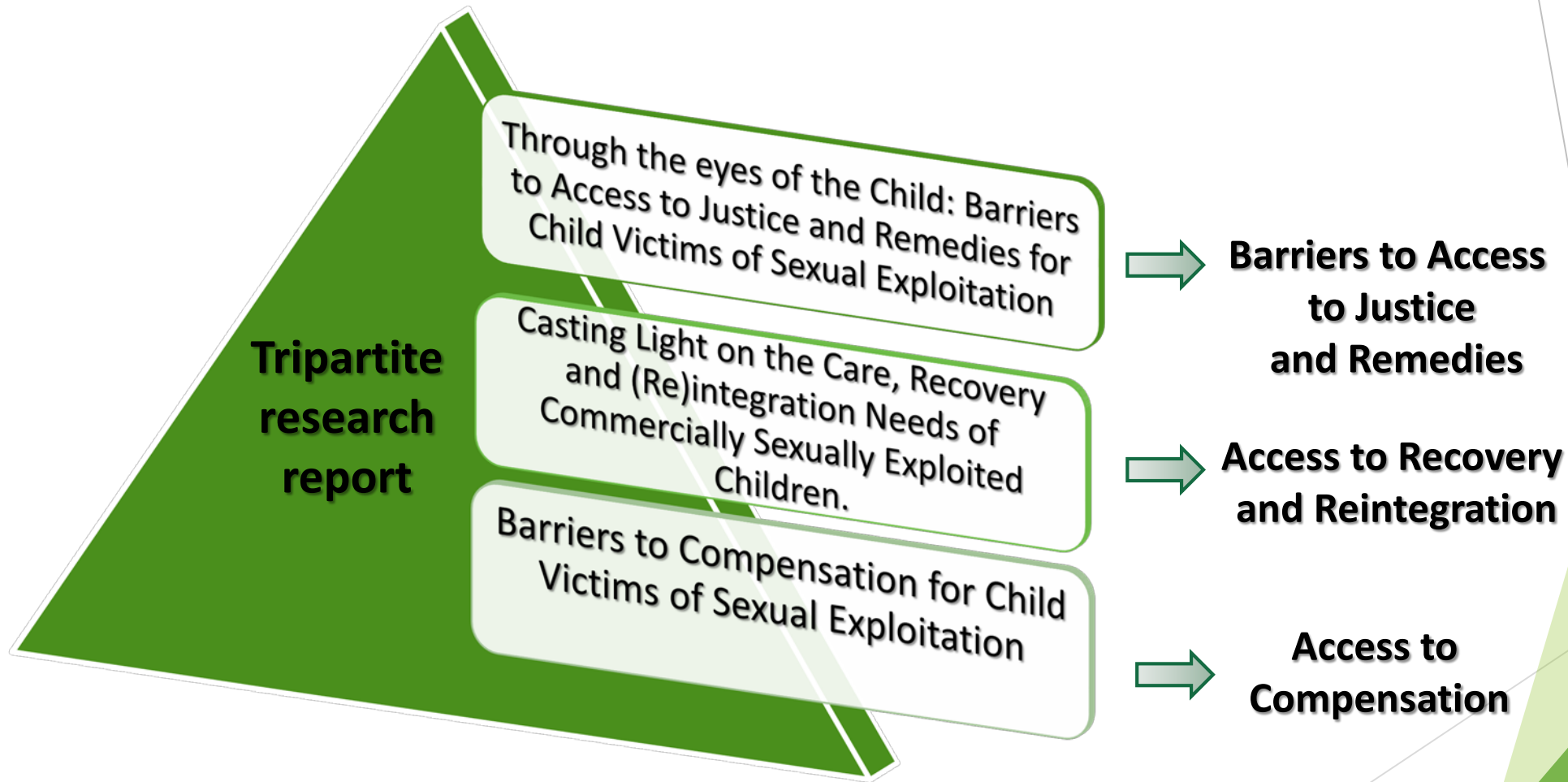
► Right to Recovery and Reintegration:

Examining child victims right to recovery and reintegration for sexual exploitation, documenting measures undertaken in each country and identifying gaps

► Right to Compensation:

Examine different avenues available (or lack of) to child victims to seek and obtain compensation

Structure of the research study



Access to Justice Study - Method

- **Question:** What are the barriers to accessing justice?
- **Key Priority:** Listen to & learn from SEC survivors
- **Study Countries:** Nepal, Philippines, Thailand
- **Desk & Field Research:**
 - ▶ 41 interviews with survivors (aged 13-26)
 - ▶ 26 interviews with professionals
- **Challenges**





ECPAT's Access to Justice Study: Key Findings

Good News

- ▶ Countries around the world have enacted a wide range of child-friendly justice procedures

Bad News

- ▶ Child Victims of sexual exploitation still struggle to access justice through the criminal justice system



Access-to-Justice Barriers for Sexually Exploited Children

At every stage of proceedings, sexually exploited children face unique barriers that hinder access to justice:

1. **Entering the Justice System:** Reporting, Rescue, Criminalisation
2. **Participating in the System:** Support, Protection, Care, Assistance
3. **Securing Remedies**



Unique Barriers to Reporting

- ▶ **Don't see themselves as victims**
- ▶ **Fear of arrest & distrust of police**
- ▶ **Heightened risk of retaliation and stigma**
- ▶ **Don't want to be committed to shelters**



Unique Barriers to Rescue

- ▶ **Police inaction was common theme**
- ▶ **Rely on NGOs to search for, find & rescue children**
- ▶ **When raids do occur, exploited children are often misidentified or mistreated**



Unique Barriers: Lack of Support

- ▶ **Family support vital to child's successful participation, however:**
- ▶ **Family support was rare especially in cases of trafficked children**
- ▶ **Pressure for families to settle out of court**



Unique Barriers: Care and Protection

- ▶ **Children are often placed in protective shelters pre-trial**
- ▶ **SEC Offenders are released pre-trial**



Participating in Justice Systems: Assistance

Good Practices in child friendly procedures:

- ▶ Limits of # of interviews
- ▶ In camera or closed-door hearings
- ▶ Live-link testimony from a private room
- ▶ Child specialists to conduct questioning
- ▶ Support persons and comfort items



Barriers to Legal Remedies

Barriers to Compensation:

- ▶ Only 5 out of 42 reported knowing about compensation
- ▶ Biased against children exploited in sex trade
- ▶ Children almost never receive restitution from offenders
- ▶ State compensation programmes can be an option but...

Access to Justice– Child-Friendly Justice: Moving Forward

Entering the Justice System

- Outreach
- Develop police capacity
- Safe harbours against arrest

Participating in the Justice System

- Appointed advocate
- Presumption of pretrial detention
- Witness protection, esp. around courthouse
- Flexible child-friendly procedures

Legal Remedies

- Victim assistance
- Restitution enforcement mechanisms
- State-managed funds with safe harbours



Thank you for your attention!
Research reports can be downloaded
from: www.ecpat.net